

UNITED STATES TAX COURT
WASHINGTON, DC 20217

EUGENIO ESPINOZA MARTINEZ,)
)
Petitioner(s),) **CZ**
)
v.) Docket No. 29472-12.
)
COMMISSIONER OF INTERNAL REVENUE,)
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Respondent)
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ORDER & DECISION

This case was on the Court’s October 27, 2014 trial calendar for San Antonio, Texas, and arises from Mr. Martinez’s 2009 and 2010 tax years. The Court already granted the Commissioner’s summary-judgment motion for the 2010 tax year. That left the 2009 tax year. There were three issues for that year:

whether Mr. Martinez accurately reported gross receipts on his Schedule C for 2009;

whether he accurately reported Schedule C expenses for 2009; and

whether he accurately reported Schedule A expenses for 2009.

Mr. Martinez is an inmate in the Texas prison system, where he was sentenced after he pled guilty to aggravated assault causing serious bodily injury and tampering with physical evidence, crimes that will likely leave him an inmate for the next decade. *Martinez v. State*, No. 13-12-00541-CR, 2012 WL 5188037 (Tex. Ct. App. Oct. 18, 2012).

SERVED May 10 2017

Before he was imprisoned, he was a schoolteacher who filed income-tax returns in the usual way. The Commissioner sent him a notice of deficiency for these years in September 2012, after he had already begun serving his sentence.

Prisoners routinely exercise their right to petition the Tax Court to challenge notices of deficiency. And, despite the undoubted problems of conducting litigation from behind bars, we do try to develop and resolve cases instead of continuing them until the end of an inmate's sentence¹ -- which of course may never come. *See, e.g., Rader v. Commissioner*, Docket No. 7952-12S (serial killer serving 10 consecutive life sentences); "BTK Sentenced to 10 Life Terms," CNN (Aug. 18, 2005), <http://www.cnn.com/2005/LAW/08/18/btk.killings/>.

After slowly working through the stipulation and summary-judgment process, the Court ordered Mr. Martinez to file written testimony stating why he disagrees with the notice of deficiency as to his 2009 tax year. We gave him a deadline of March 13, 2017. A check of the docket shows that he has not filed such testimony, and it is therefore

ORDERED the Court holds petitioner in default under Tax Court Rule 123(a) and will dismiss this case. It is also

DECIDED that there are deficiencies in income tax due from petitioner of \$3,931 for the tax year 2009 and of \$1,227 for the tax year 2010.

**(Signed) Mark V. Holmes
Judge**

ENTERED: **MAY 10 2017**

¹ This is a particular problem when prisoners are in a state system. Writs of *habeas corpus ad testificandum* are difficult to manage between different sovereigns, and security concerns make transportation of prisoners quite difficult. *See, e.g., Maurer v. Pitchess*, 530 F. Supp. 77 (C.D. Cal. 1981), *aff'd in part and rev'd in part*, 755 F.2d 936 (9th Cir. 1985). Many such cases are for relatively small amounts, which adds to the need to find economical solutions to resolving them.