

UNITED STATES TAX COURT
WASHINGTON, DC 20217

MICHAEL A. BANDISH & JACQUELINE M.)
BANDISH,)
)
Petitioners,) **ALS**
)
v.) Docket No. 13342-16.
)
COMMISSIONER OF INTERNAL REVENUE,)
)
Respondent)

ORDER

On August 16, 2017, petitioners filed a Motion To Seal. Petitioners seek to seal the entire record in this matter because petitioners are concerned about the safety of themselves and their family, and assert that they keep all their personal information confidential due to Mr. Bandish’s occupation.

Generally, section 7461(a) of the Internal Revenue Code provides that all reports of the Tax Court and all evidence received by the Tax Court shall be public records open to the inspection of the public. The Tax Court, in its discretion, may seal the record or portions thereof where justice so requires and the party seeking such relief demonstrates good cause. Willie Nelson Music Co. v. Commissioner, 85 T.C. 914, 920 (1985). To determine whether the sealing of any documents is appropriate we must weigh the public’s interest in access to the documents against the taxpayer’s interests. See id. at 919. The party seeking to seal the case must produce “appropriate testimony and factual data” to support claims of harm that would occur as a consequence of disclosure and may not rely on conclusory or unsupported statements to establish good cause. Estate of Yaeger v. Commissioner, 92 T.C. 180, 189 (1989); see also Willie Nelson Music Co. v. Commissioner, 85 T.C. at 920.

In Anonymous v. Commissioner, 127 T.C. 89, 92-93 (2006), the Court concluded that the risk of extreme physical harm to the taxpayer and the taxpayer's family outweighed the countervailing public interest favoring open judicial proceedings where the taxpayer submitted affidavits together with supporting documents showing that a member of the taxpayer's family had been kidnapped several years previously and that kidnapping was rampant in the country where the taxpayer and most of the taxpayer's family resided. Similarly, in Whistleblower 11332-13W v. Commissioner, T.C. Memo. 2014-92, at *3, the Court concluded that the significant risk of severe physical harm to the whistleblower and the whistleblower's family outweighed the countervailing public interest favoring open judicial proceedings when the whistleblower's counsel submitted an affidavit demonstrating that: (1) the targets were linked to terrorist organizations; (2) the whistleblower received a death threat; (3) the targets used armed guards to break into the whistleblower's office; and (4) the Government had offered to place the whistleblower in the witness protection program.

Alternatively, in Willie Nelson Music Co. v. Commissioner, 85 T.C. at 916, 924-925, the Court found that the taxpayers had not demonstrated sufficient cause to seal the record where they asserted that since Mr. Nelson was a famous musician and they owned the Willie Nelson Music Company they were "nationally known personalities" and they would be subject to intense media scrutiny and damaged reputations. The Court concluded that the taxpayers had not provided evidence to support their assertions and failed to demonstrate specific harm, financial or otherwise, that they would suffer if their motions to seal were not granted. Id. at 925-927.

Although the Court understands that petitioners have concerns, the assertions made are not sufficient to overcome the presumption in favor of public access to the Court's records. The Court notes that Rule 27(b)(2) of the Tax Court Rules of Practice and Procedure provides that individuals other than the parties and their counsel have only limited remote electronic access to the docket record maintained by the Court. Thus petitioners' address would not ordinarily be available to the public by remote electronic access. In addition, the Court regularly redacts a taxpayer's address for purposes of remote electronic access on a decision document when the decision is entered. Accordingly, third parties, unrelated to this docket, would not normally have electronic access to petitioners' address.

Upon due consideration, it is

ORDERED that petitioners' Motion To Seal, filed August 16, 2017, is denied.

(Signed) Peter J. Panuthos
Special Trial Judge

Dated: Washington, D.C.
September 28, 2017