

UNITED STATES TAX COURT
WASHINGTON, DC 20217

CLC

JAMES MILTON MEINTZ,)
)
Petitioner,)
)
v.) Docket No. 25321-16.
)
COMMISSIONER OF INTERNAL REVENUE,)
)
Respondent)

ORDER AND DECISION

James Milton Meintz seeks review of the Commissioner's deficiency determination for 2013. The Commissioner moved for summary judgment under Rule 121,¹ arguing that the undisputed facts require a decision in his favor. The Commissioner also asks that we impose a sanction under section 6673(a)(1). Mr. Meintz does not dispute the relevant facts and has only set forth frivolous arguments in response. Because we find that there is no genuine dispute as to any material fact, we grant the Commissioner's motion for summary judgment.

Background

In 2013 Mr. Meintz worked as an electrical worker in California. He received wages from PAR Electrical Contractors, Inc., Hot Line Construction, Inc., and Aldridge Electric, Inc. during 2013. He also received a state income tax refund from the State of California Franchise Tax Board, interest income from the Bank of America, and unemployment compensation from California's Employment Development Department. Mr. Meintz never filed his tax return for 2013.² The Commissioner prepared a 2013 substitute for return under section 6020(b) with the filing status of married filing separately.

¹ Unless otherwise indicated, all Rule references are to the Tax Court Rules of Practice and Procedure, and all section references are to the Internal Revenue Code in effect for the years at issue.

² Many of these facts have been deemed admitted. The Commissioner filed and served his request for admissions on September 25, 2017. Mr. Meintz never

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On August 29, 2016, the Commissioner issued a notice of deficiency to Mr. Meintz for 2013. In the notice of deficiency, the Commissioner determined that Mr. Meintz had unreported income from wages, a state income tax refund, interest, and unemployment compensation. The Commissioner also asserted additions to tax for failure to file under section 6651(a)(1), failure to pay under section 6651(a)(2), and failure to make estimated tax payments under section 6654(a).

Mr. Meintz timely filed a petition in response to the notice of deficiency. Mr. Meintz resided in California at the time he filed this petition. In that petition, Mr. Meintz disagrees with the Commissioner's determinations, arguing that he is "not personally liable for an income tax * * * [or] to file a tax return."

On December 8, 2017, the Commissioner lodged a motion for summary judgment under Rule 121 and filed a motion for leave to file the summary judgment motion out of time and a motion to impose a penalty on Mr. Meintz. On December 11, 2017, the Commissioner's motion for leave to file the summary judgment motion out of time was granted and the Commissioner's motion for summary judgment was filed. In the motion for summary judgment, the Commissioner argues that there is no dispute over any material fact. In the motion to impose a penalty, the Commissioner asserts that Mr. Meintz's arguments are frivolous and made primarily for the purpose of delay.

This case was called from the calendar for the trial session of the Court at Los Angeles, California on December 11, 2017, for hearing on the Commissioner's motions. Both parties appeared and were heard. Mr. Meintz acknowledged he received copies of the Commissioner's motions. He agreed there was no factual dispute and a trial was not necessary. The Court informed Mr. Meintz, if he chose to, he could set forth his legal arguments in a response to the Commissioner's motion for summary judgment. The Court granted to motion for leave. Relating to the summary judgment motion, the Court cautioned Mr. Meintz against perpetuating frivolous arguments and referred him to specific Tax Court cases that directly address the issues that he had raised thus far:

[T]he Commissioner has characterized the arguments you're making as frivolous, which is why I'm referring you to Kernan and Wnuck and Waltner, because I'd like you to take a look at those and see what

responded. Under Rule 90(c), the matters contained in the request for admissions are deemed admitted.

you think coming out of those. I'm not ruling today on the Commissioner's motion to impose sanctions. We'll leave that to see what you have to say in your brief.

The Court provided Mr. Meintz with citations to Kernan v. Commissioner, T.C. Memo. 2014-228, Wnuck v. Commissioner, 136 T.C. 498 (2011), and Waltner v. Commissioner, T.C. Memo. 2014-133.

On January 26, 2018, Mr. Meintz filed a response to the Commissioner's motion for summary judgment. In that response, Mr. Meintz asserts the same frivolous positions he had raised in his petition. Mr. Meintz argues that he is not required to pay Federal income tax and that a "direct income tax is not legal."

Discussion

The issue before this Court is whether we should grant the Commissioner's motion for summary judgment. Under Rule 121(a), either party may move for summary judgment regarding all or any part of the legal issues in controversy. We may grant summary judgment only if there is no genuine dispute as to any material fact.³

The party moving for summary judgment bears the burden of demonstrating that there is no genuine dispute as to any material fact.⁴ "In deciding whether to grant summary judgment, the factual materials and the inferences drawn from them must be considered in the light most favorable to the nonmoving party."⁵ When a motion for summary judgment is made and properly supported, the nonmoving party may not rest on mere allegations or denials, but must set forth specific facts showing that there is a genuine dispute for trial.⁶ As a general matter, the Commissioner's determinations in the notice of deficiency are presumed correct, and the taxpayer bears the burden of proving an error.⁷

The Commissioner determined that Mr. Meintz had unreported income from third-party reporting. Mr. Meintz does not dispute the unreported income

³ Rule 121(b); Naftel v. Commissioner, 85 T.C. 527, 529 (1985).

⁴ Sundstrand Corp. v. Commissioner, 98 T.C. 518, 520 (1992), aff'd, 17 F.3d 965 (7th Cir. 1994).

⁵ FPL Group, Inc. v. Commissioner, 115 T.C. 554, 559 (2000).

⁶ Rule 121(d).

⁷ Rule 142(a); Welch v. Helvering, 290 U.S. 111, 115 (1933).

Commissioner attributed to him. Instead, he argues that he is not required to pay a Federal income tax or file a Federal income tax return and that the Internal Revenue Code is not lawful.

This Court has addressed Mr. Meintz's arguments repeatedly.⁸ Mr. Meintz is required to pay Federal income tax and file Federal income tax returns.⁹ Section 1 imposes a Federal income tax on the taxable income of individuals. Section 6012(a)(1)(A) provides that "[r]eturns with respect to income taxes under subtitle A shall be made by * * * [e]very individual having for the taxable year gross income which equals or exceeds the exemption amount". Disputes to "the contrary have been consistently rejected and characterized as frivolous in innumerable cases."¹⁰ It has long been established that the Federal income tax laws are constitutional.¹¹ The Commissioner's determinations are sustained.

The Commissioner asserted three additions to tax: failure to file, failure to pay, and failure to make estimated tax payments. Each of these additions to tax is excluded from the supervisory approval requirement of section 6751(b)(1).¹² Accordingly, the recent opinion in Graev v. Commissioner, 149 T.C. No. 23 (Dec. 20, 2017) is not implicated.

The Commissioner bears the burden of production for additions to tax before the burden shifts to taxpayers to prove that the addition to tax should not apply.¹³ But Mr. Meintz did not allege any error in the Commissioner's determinations as to the additions to tax. Where a petitioner fails to state a claim with respect to an addition to tax, the Commissioner incurs no obligation under section 7491(c) to produce evidence in support of his determination.¹⁴

⁸ See Kernan v. Commissioner, T.C. Memo. 2014-228, at *18 n.23 (citing Zook v. Commissioner, T.C. Memo. 2013-128, at *9 & n.5; Fox v. Commissioner, T.C. Memo. 1997-440; cf. Funk v. Commissioner, T.C. Memo. 2001-291).

⁹ See Kernan v. Commissioner, T.C. Memo. 2014-228, at *18.

¹⁰ Horowitz v. Commissioner, T.C. Memo. 2006-91, 91 T.C.M. (CCH) 1120, 1120 (2006).

¹¹ Crain v. Commissioner, 737 F.2d 1417, 1417-1418 (5th Cir. 1984); Vickers v. Commissioner, T.C. Memo. 1983-429, 46 T.C.M. (CCH) 833, 835 (1983).

¹² See sec. 6751(b)(2)(A).

¹³ See sec. 7491(c); Higbee v. Commissioner, 116 T.C. 438, 446-447 (2001).

¹⁴ See Funk v. Commissioner, 123 T.C. 213, 218 (2004); Swain v. Commissioner, 118 T.C. 358, 364-365 (2002).

Even if the Commissioner bore the burden of production with respect to the additions to tax in this case, he has satisfied that burden. The Commissioner established through his requests for admissions that for 2013 Mr. Meintz had income, that he had an obligation to make estimated tax payments, that he did not make estimated tax payments, that he did not file his Federal income tax return, and that he did not pay his Federal income tax liability. Mr. Meintz did not dispute these statements, and these facts were deemed admitted. Thus, the Commissioner would have met his burden of production as to the substantive application of the additions to tax if he had that burden.

Finally, the Commissioner asked the Court to impose a penalty under section 6673. Under section 6673(a)(1), this Court may require a taxpayer to pay a penalty not in excess of \$25,000 whenever it appears: (1) the taxpayer has instituted or maintained proceedings primarily for delay; (2) the taxpayer's position is frivolous or groundless; or (3) the taxpayer unreasonably failed to pursue available administrative remedies. A taxpayer's position is frivolous or groundless if it is "contrary to established law and unsupported by a reasoned, colorable argument for change in the law."¹⁵

We need not rely on the Commissioner's motion in imposing a sanction. On December 11, 2017, this Court advised Mr. Meintz to not make the preceding arguments. Mr. Meintz persisted in advancing the same frivolous arguments--that he is not required to pay a Federal income tax or file a Federal income tax return, and that the Internal Revenue Code is unlawful. The Court directed Mr. Meintz to specific cases that address the issues he had raised, yet when he filed his response to the Commissioner's motion, he perpetuated the same frivolous arguments that were specifically rebutted in those cases. Because Mr. Meintz perpetuated an argument for which he was forewarned, a sanction is warranted. Accordingly, we impose a penalty under section 6673(a)(1) of \$1,000. We also caution Mr. Meintz that the Court may impose a sanction of up to \$25,000, and that continuing to pursue frivolous claims may result in increased sanctions.

Conclusion

¹⁵ Williams v. Commissioner, 114 T.C. 136, 144 (2000) (quoting Coleman v. Commissioner, 791 F.2d 68, 71 (7th Cir. 1986)).

There is no genuine dispute as to any material fact with respect to Mr. Meintz's 2013 tax liability, and we must render a decision for the Commissioner as a matter of law. Accordingly, it is

ORDERED that the Commissioner's motion for summary judgment lodged December 8, 2017, and filed December 11, 2017, is granted. It is further

ORDERED that the Commissioner's motion to impose sanctions is granted in that there is hereby imposed against Mr. Meintz a sanction under section 6673 of \$1,000.

ORDERED and DECIDED that there are deficiencies in income tax and additions to tax as follows:

<u>Year</u>	<u>Deficiency</u>	<u>Additions to Tax/Penalties</u>		
		<u>Sec. 6651(a)(1)</u>	<u>I.R.C. §§ Sec. 6651(a)(2)</u>	<u>Sec. 6654(a)</u>
2013	\$53,727.00	\$12,088.58	\$964.77	\$7,253.15

**(Signed) Ronald L. Buch
Judge**

Entered: **FEB 14 2018**