

May 16, 2023

Department of the Treasury
Internal Revenue Service
Kansas City, MO 64999-0025

RE: **Notice CP12** dated April 24, 2023 Tax Year 2021

To Whom It May Concern,

We **do not agree** with the changes you made to our 2021 Form 1040SR.

The unauthorized changes you made to our 2021 Form 1040SR did not include withholdings labeled Social Security tax withheld and Medicare tax withheld that we provided to you on multiple occasions by the submission of Form 4852.

The Notice CP12 under the section "**Why we changed your information**"

- We changed the amount claimed as federal income tax withheld on your tax return to reflect the amounts shown on Form(s) W-2, 1099, or supporting documents.

You received Forms 4852 on:

April 15, 2022 USPS Certified Mail #7020 0640 0000 8163 3840
October 8, 2022 USPS Certified Mail #7021 0950 0002 0005 8724

The totals were as follows:

| | | |
|----------------------|-----------|----------|
| Federal Withholding: | \$4450.95 | Refunded |
| Social Security Tax: | \$3086.98 | |
| Medicare Tax: | \$ 721.95 | |

Your notice did report some unalterable facts of which you attested to per "**Your Tax calculations**" section:

1. \$0.00 Adjusted gross income, Form 1040SR, line 11- **IRS calculations**
2. \$0.00 Taxable income, Form 1040SR line 15 – **IRS calculations**
3. \$0.00 Total tax, Form 1040SR Line 24 – **IRS calculations**

You are correct, by your own admission that \$0.00 Adjusted gross income, \$0.00 Taxable income and \$0.00 Total tax is of our 2021 earnings.

Since you have acknowledged the fact that we have not performed any taxable activities in 2021, with regards to our 1040SR return, we should not have any withholding whatsoever kept back.

We request that you uphold the law accordingly and refund us the remaining \$3,808.93 rightfully due to us in the form of a check. This was withheld under the guise of Social Security Tax, \$3,86.98, and Medicare Tax equaling \$721.95.

Our 1040SR, line 25d showed \$7,739.88 (Federal \$3,930.95 + Social Security Tax \$3,086.98 and Medicare \$721.95). Line 25b on our 1040SR shows an additional \$520 Federal withholding. The Federal withholding equaling \$4,450.00 has been refunding due to **not having any taxable activities** in 2021.

According to 26 USC section 3503 - Erroneous Payments:

“Any tax paid under Chapter 21 or 22 by a taxpayer with respect to any period with respect to which he is not liable to tax under such chapter shall be credited against the tax, if any, imposed by such other chapter upon the taxpayer, and the balance, if any shall be refunded.”

By admitting that we received no “wages,” you have agreed that we received nothing subject to the normal federal income tax. We have not received anything subject to the FICA surtax because both taxes fall on “wages”. With no “wages”, there is no withholding to be withheld. Therefore, please return the additional \$3,808.93 of our private property to us that you currently are holding.

The Supreme Court in Rowan Cos. V United States, 452 US 247 1981, stated the following:

“The plain language and legislative histories of the relevant statutes indicate that Congress intended for its definition of “wages” to interpreted in the same manner of FICA and FUTA as for income tax withholding.”

With all that has been said, we all are in agreement that we have not received any Chapter 24 “wages” 26 USC 3401 (a) and therefore we also did not receive any Chapter 21 “wages” 26 USC 3121 (a). You have no valid grounds to withhold our private property.

We expect the remaining \$3,808.93 with interest in a timely fashion.

Thank you,

Bruce A Comeau

Andrea Comeau