

September 9, 2022

TYLER Q. & AMIZERO P. O'DONNELL

IRS
DEPARTMENT OF THE TREASURY
KANSAS CITY MO 64999-0025

Regarding reply to: Notice Name CP12, dated September 05, 2022 (received September 6th, 2022), copy attached.

To Whom It May Concern,

We do not agree with the changes you made to our 2021 Form 1040 Individual Income Tax Return.

The unauthorized changes you made to our 2021 Form 1040 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, therefore changing the total Income tax amount withheld from \$9,117 line 25d to \$4,632 (an arbitrary number). How did you get \$4,632 for Income tax withheld, Form 1040 line 25d under "IRS calculations"? Our Form 4852 showed \$4,246. In no way, shape, or form did we ever calculate our "Taxable income" under your calculations as "\$911,709.00" on our 2021 Form 1040 as you claim we did in the CP12. This is an egregious error on your part, and needs to be rectified by you for the record as "\$0.00".

The Notice CP12 under the section Why we changed your information, stated the following: "*we didn't allow the amount claimed as federal income tax withheld on your tax return because Form(s) W-2 or other supporting documents were not attached to your tax return.*" On 02/14/2022 you received an original Form 4852 (USPS Certified Mail Number: 70203160000199221007) and on 07/29/2022 you received a copy of Form 4852 (USPS Priority Mail Express: E1204039736US) that was originally attached to our tax return in question. This provided reason above of "why you changed our information" is absolutely false, and has no merit and no bearing on the truth regarding our 2021 Form 1040 tax return.

Your notice, however, did report some unalterable facts, of which you attested to per Your tax calculations section:

1. "\$0.00 Adjusted gross income, Form 1040 line 11 (IRS calculations)
2. "\$0.00 Taxable income, Form 1040 line 15 (IRS calculations)
3. "\$0.00 Total tax, Form 1040 line 24 (IRS calculations)

You are indeed correct, by your own admission, that "\$0.00 Adjusted gross income, \$0.00 Taxable income, & \$0.00 Total tax" is true of our 2021 earnings. Because you yourself have acknowledged the fact that my wife and I performed no taxable activities in 2021, with regards to our 1040 tax return, and therefore should have had no withholding whatsoever, we request that you uphold the law accordingly and refund us the remaining \$4,871 rightfully due to us in the form of a check, that was withheld under the guise of "Social Security tax & Medicare Tax" as shown on Form 4852. Our 1040 on line 25d showed \$9117 (Federal Income Tax \$4,246 + Social Security Tax \$3,948 + Medicare Tax \$923). Our 2021 Form 1040 showed \$12,717 on lines 33,34,35a. Your \$8,232 refund is not the total amount due.

According to 26 USC § 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 agreed, not only that we received nothing subject to the normal federal income tax, but also that we received nothing subject to the FICA surtax because both taxes fall on "wages". The normal federal income tax falls on "wages" received, and the FICA surtax falls on the first \$118,500 of the same "wages". With no "wages" as in our case, there is no withholding to be withheld. Therefore, please return the additional \$4,871 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 be interpreted in the same manner of FICA and FUTA as for income tax withholding."

With all that being said, you and us are in agreement that we received no Chapter 24 "wages" 26 USC 3401(a) & therefore, we also did not receive any Chapter 21 "wages" 26 USC 3121(a). I have provided copies with this mailing of our previous correspondence with you regarding a LTR12C for any additional clarity needed. It is abundantly clear that you have received our Form 4852, a substitute for Form W-2 from us at this point. You have no valid ground to withhold our private property. We expect \$4,871 to be sent to us accordingly.

Respectfully,

