

UNITED STATES TAX COURT

www.ustaxcourt.gov

(FIRST) (MIDDLE) (LAST)

Ruben [REDACTED]
(PLEASE TYPE OR PRINT) Petitioner(s)

v.

COMMISSIONER OF INTERNAL REVENUE,

Respondent

Docket No. 22573-21

FIRST AMENDED PETITION

1. Please check the appropriate box(es) to show which IRS ACTION(S) you dispute:

- Notice of Deficiency
- Notice of Determination Concerning Relief From Joint and Several Liability Under Section 6015 (or Failure of IRS to Make Determination Within 6 Months After Election or Request for Relief)*
- Notice of Determination Concerning Collection Action
- Notice of Certification of Your Seriously Delinquent Federal Tax Debt to the Department of State
- Notice of Final Determination for [Full/Partial] Disallowance of Interest Abatement Claim (or Failure of IRS to Make Final Determination Within 180 Days After Claim for Abatement)*
- Notice of Determination Under Section 7623 Concerning Whistleblower Action*
- Notice of Determination of Worker Classification*

*For additional information, please see "Taxpayer Information: Starting a Case" at www.ustaxcourt.gov (accessible by hyperlink from asterisks above, or in the Court's information booklet).

2. If applicable, provide the date(s) the IRS issued the NOTICE(S) checked above and the city and State of the IRS office(s) issuing the NOTICE(S): March 24, 2021

3. Provide the year(s) or period(s) for which the NOTICE(S) was/were issued: 2017

4. SELECT ONE OF THE FOLLOWING (unless your case is a whistleblower or a certification action):

If you want your case conducted under small tax case procedures, check here: (CHECK ONE BOX)
If you want your case conducted under regular tax case procedures, check here: (CHECK ONE BOX)

NOTE: A decision in a "small tax case" cannot be appealed to a Court of Appeals by the taxpayer or the IRS. If you do not check either box, the Court will file your case as a regular tax case.

5. Explain why you disagree with the IRS determination in this case (please list each point separately):

See attachment.

6. State the facts upon which you rely (please list each point separately):

See attachment.

(Docket No. 22573-21, sent via USPS certified mail #: 7019 2280 0001 8775 1752, with return receipt requested.)

You may use additional pages to explain why you disagree with the IRS determination or to state additional facts. Please do not submit tax forms, receipts, or other types of evidence with this petition.

ENCLOSURES:

Please check the appropriate boxes to show that you have enclosed the following items with this petition:

- Checkboxes for: A copy of any NOTICE(S) the IRS issued to you; Statement of Taxpayer Identification Number (Form 4); The Request for Place of Trial (Form 5); The filing fee.

PRIVACY NOTICE: Form 4 (Statement of Taxpayer Identification Number) will not be part of the Court's public files. All other documents filed with the Court, including this Petition and any IRS Notice that you enclose with this Petition, will become part of the Court's public files. To protect your privacy, you are strongly encouraged to omit or remove from this Petition, from any enclosed IRS Notice, and from any other document (other than Form 4) your taxpayer identification number (e.g., your Social Security number) and certain other confidential information as specified in the Tax Court's "Notice Regarding Privacy and Public Access to Case Files", available at www.ustaxcourt.gov.

Form fields for SIGNATURE OF PETITIONER, DATE, (AREA CODE) TELEPHONE NO., MAILING ADDRESS, CITY, STATE, ZIP CODE, State of legal residence, E-mail address, SIGNATURE OF ADDITIONAL PETITIONER, NAME OF COUNSEL, TAX COURT BAR NO., and E-MAIL ADDRESS.

ATTACHMENT TO FIRST AMENDED PETITION

In support of the First Amended Petition of Ruben [REDACTED] ("Petitioner"), and answering question numbers 5 and 6 on the simplified Petition form filed by Petitioner on October 27, 2021 ("Petition"), Petitioner hereby states the following facts on which he relies, followed by separate assignments of error and affirmative defenses:

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FACTS

1. At the time of the filing of this First Amended Petition, Petitioner resides in the state of California.

2. Petitioner's current address is [REDACTED], Fullerton, California, 92833.

3. Respondent's purported "Notice of Deficiency", a genuine copy of which is attached hereto as Exhibit "A" (the "NOD"), is dated March 24, 2021, was created on Respondent's letterhead, and bears an express declaration that it was issued by:

Denise D. Davis
Executive Officer
Return Integrity and Compliance Services
Integrity and Verification Operations

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4. Petitioner timely filed his Petition, dated June 21, 2021, before this Court in response to the NOD, (the "original Petition").

5. Petitioner received from Stephanie A. Servoss, Clerk of the Court, a Notice of Receipt of Petition, indicating the Court's receipt of the original Petition on June 25, 2021, with assignment of Docket No. 22573-21, and service upon Respondent on September 14, 2021.

6. At the time of the filing of this First Amended Petition, Petitioner has not been notified of the filing of any answer by Respondent to the original Petition. Therefore, Petitioner hereby

files this First Amended Petition as a matter of course, pursuant to United States Tax Court Rules of Practice and Procedure, Rule 41(a).

7. The alleged deficiency stated in the NOD is for Federal income taxes and interest for the year ending December 31, 2017, in the amount of \$8,633.00.

8. All of said amount is disputed.

9. Petitioner filed his federal income tax return for the 2017 tax year, Form 1040EZ, dated March 9, 2018, with supporting documents attached thereto, via U.S. certified mail, with return receipt requested, on March 9, 2018 (the "2017 return").

10. No underpayment of Petitioner's Federal income tax liabilities exists for the 2017 tax year.

11. Petitioner is not liable for any amount whatsoever of the alleged deficiency in income taxes and interest as set forth by Respondent in the NOD for the 2017 tax year.

12. No underpayment of Petitioner's Federal income tax liabilities exists as determined by Respondent in the NOD for the 2017 tax year.

13. Petitioner alleges that the following errors have been committed by Respondent, in the determination of said deficiencies, as set forth in the NOD, and in the administration of Petitioner's account for the 2017 tax year.

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ASSIGNMENT OF ERRORS

1. For the income tax year ended December 31, 2017:
 - a. Respondent erred, because the purported NOD was improperly issued by a party without the delegated authority to do so, pursuant to IRS Delegation Order 4-8, and established IRS rules and procedure, at Internal Revenue Manual ("IRM") § 1.2.2.5.8.
 - b. Respondent erred in determining that there is a deficiency in Federal income tax for Petitioner in any amount whatsoever.

c. Respondent erred in determining that there is an underpayment of tax in any amount whatsoever.

d. Respondent erred in determining that Petitioner received "IRA Distributions", in any amount whatsoever.

e. Respondent erred in determining Petitioner's "wages, salaries and tips" in any amount whatsoever.

f. Respondent erred in determining the amount of "W-2/1099 Federal Income Tax Withholding".

g. Respondent erred in his determination of an adjustment to Petitioner's "withholding credits", in any amount whatsoever.

h. Respondent erred in calculating the alleged tax liability for Petitioner.

i. Respondent erred, by falsely claiming, on page 1 of 2, in Form 4549, that the "Person with whom examination changes were discussed", was the Petitioner.

j. Respondent erred, by failing to conduct any good-faith inquiries prior to his issuance of the NOD, in violation of his express statutory duty under IRC § 6201(a).

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AFFIRMATIVE DEFENSES

PETITIONER FURTHER ALLEGES, and as for separate affirmative defenses, that, as to the 2017 tax year:

1. Respondent's purported NOD was improperly issued by a party without the delegated authority to do so, pursuant to Delegation Order 4-8, and established IRS rules and procedure, at IRM § 1.2.2.5.8.

2. Respondent's purported NOD contains a false statement of material fact, by falsely claiming, on page 1 of 2, in Form 4549, that the "Person with whom examination changes were discussed", was the Petitioner.

3. Respondent failed to conduct any good-faith inquiries prior to issuance of the NOD, in violation of his express statutory duty under IRC § 6201(a).

4. Respondent's purported NOD fails to state a claim upon which relief can be granted.

5. Notwithstanding the foregoing, the burden of proof relating to alleged additional income for the 2017 tax year rests solely upon the Respondent.

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WHEREFORE, Petitioner prays that this Court issue an order:

1. finding Respondent's purported NOD, along with the alleged "determinations" of the Secretary, of which the NOD purports to be legal evidence and the basis for assessment and collection, to be invalid on its face, null and void, due to its issuance by a party without the delegated authority to do so;

2. finding that any refund amounts due to Petitioner which have been seized, withheld, or frozen by Respondent, shall be released to Petitioner without the filing of a claim therefore, and;

3. awarding such other and further relief to Petitioner as this Court deems just and proper. Or, otherwise:

4. finding that Respondent's determinations are erroneous and/or that there is no tax, or interest due whatsoever from Petitioner for the 2017 tax year;

5. finding that Respondent failed to perform his express statutory duty under IRC § 6201(a), to conduct good-faith inquiries prior to his issuance of the NOD;

6. finding that any refund amounts due to Petitioner which have been seized, withheld, or frozen by Respondent, shall be released to Petitioner without the filing of a claim therefore, and;

7. awarding such other and further relief to Petitioner as this Court deems just and proper.

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