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9 UNITED STATES DISTRICT COURT  
10 NORTHERN DISTRICT OF CALIFORNIA  
11 SAN FRANCISCO DIVISION

12 MARTIN D. SMITH

13 Plaintiff

14 v.

15 DEPARTMENT OF TREASURY/  
16 INTERNAL REVENUE SERVICE  
17  
18  
19  
20

) Case No.:

) **COMPLAINT**  
) **(1) REQUEST FOR ABATEMENT OF**  
) **TAXES ASSESSED TAX YEAR 2001; (2)**  
) **REQUEST FOR DECLARATORY**  
) **RELIEF; (3) RULE 23(A) CLASS-**  
) **ACTION STATUS SOUGHT**

21  
22 Comes now Martin D. Smith to seek abatement of taxes assessed by the Internal Revenue  
23 Service for tax year 2001 and Delcaratory Relief from the requirement of Internal Revenue Code  
24 Section 6012 wto file a tax “return,” a requirement that a recent Ninth Circuit ruling makes legally  
25 impossible to satisfy.

26 Martin D. Smith (“Smith”) did not timely file his 2001 tax return, Form 1040, with the  
27 Internal Revenue Service (“IRS”). The due date for the 2001 tax return was April 15, 2002. On  
28

1 July 31, 2006, under the authority of 26 U.S.C. 6020(b), the IRS finalized a “Substitute Return”  
2 assessment for tax year 2001 because Smith still had still not filed his 2001 tax return. The total  
3 income tax assessed based upon the Substitute Return was \$70,622.

4 On May 26, 2009, Smith filed a 2001 Form 1040 with the IRS. This Form 1040 reported  
5 income that the IRS was not aware of and therefore the IRS could not and did not include this  
6 additional taxable income on its July 31, 2006 Substitute Return assessment. Specifically, the  
7 Form 1040 filed by Smith reported additional (additional to the IRS’s Substitute Return  
8 calculations) adjusted gross income of \$104,361. Such voluntary reporting by Smith directly  
9 caused the IRS on November 9, 2009 to make an additional tax assessment (an increase in tax  
10 from its July 31, 2006 Substitute Return tax assessment) in the amount of \$40,095 plus interest  
11 and applicable penalties. So the total tax assessment went from \$70,622 based upon the Substitute  
12 Return to \$110,717 based upon the Form 1040 Smith filed.

13 Recently in In re Smith, 828 F.3d 1094 (9th Cir. 2016) the Ninth Circuit agreed with the  
14 IRS’s argument and determined that when a taxpayer files a Form 1040 late, in fact years after the  
15 IRS prepared and assessed taxes against the taxpayer based upon a IRC Section 6020(b) Substitute  
16 Return, and the taxpayer has no valid reason for failing to file a Form 1040 sooner (i.e., the  
17 taxpayer lacks ‘reasonable cause’ for filing so late), the taxpayer’s Form 1040 fails to qualify as a  
18 “return” under “the tax code.”

19 Thus the Ninth Circuit set a standard of law that to qualify as a “return” under the Tax  
20 Code the taxpayer must subjectively make an “honest and reasonable” attempt to comply with the  
21 tax law. In other words, the taxpayer’s own actions or inactions in failing to file a return may  
22 negate the ability of a taxpayer to file a “return” under the tax code. And given that these actions  
23 or inactions are unchangeable (after all, a taxpayer cannot go back in time to file a “return”) there  
24 is nothing a taxpayer in this situation may do to ever file a “return.”

25 It is not in dispute that Mr. Smith’s Form 1040 filed on May 26, 2009 fails to qualify as a  
26 “return” under the tax code because Mr. Smith is the taxpayer in the 2016 Ninth Circuit Decision.

27 On March 15, 2017 Mr. Smith submitted Form 843, Claim for Abatement, to the IRS for  
28 tax year 2001. It has now been more than 6 months since the request was filed and no response

1 has been provided by the IRS. Thus under 26 USC Section 7422 Mr. Smith is entitled to file this  
2 action in the US District Court. In addition Mr. Seeks Declaratory Relief with respect to the Tax  
3 Code requirement which requires him to file a “return.”

4 **I. Brief Procedural Background**

5 The Ninth Circuit Smith case originated from a bankruptcy court dispute, specifically the  
6 question of whether a Form 1040 filed post-Substitute Return and without “reasonable cause”  
7 constituted a “return” under the Tax Code. The “hanging paragraph” of Bankruptcy Code Section  
8 523(a)(19) requires that only documents which qualify as “returns” under “*applicable non-*  
9 *bankruptcy law*” are eligible for bankruptcy discharge/elimination under the Bankruptcy Code.  
10 The hanging paragraph in Bankruptcy Code Section 523(a)(19) was specifically added to the  
11 bankruptcy code when Congress passed the Bankruptcy Abuse Prevention and Consumer  
12 Protection Act (“BAPCA”) in 2005.

13 The Ninth Circuit correctly read the “hanging paragraph” of Bankruptcy Code Section  
14 523(a)(19) in BAPCA to mean that “applicable nonbankruptcy law” refers to the Tax Code. In  
15 other words, the Bankruptcy Code now requires that in order for a document to qualify as a “return”  
16 under the bankruptcy code it is only because the document qualifies as a “return” under the tax  
17 code. In other words, if a document fails as a “return” under the bankruptcy code it is only because  
18 such document fails as a “return” under the tax code.

19 The Ninth Circuit confirms its understanding of the Bankruptcy Code’s requirement to use  
20 “non-bankruptcy law” with the final sentence in its Opinion:

21 “We hold... that Smith’s tax filing, made seven years late and three years after the  
22 IRS assessed a deficiency against him, was not an ‘honest and reasonable’ attempt  
23 to *comply with the tax code.*’ (emphasis added).

24 So while the Ninth Circuit Opinion was tasked with resolving only a Bankruptcy Code  
25 question as it related to Mr. Smith’s 2011 bankruptcy case and specifically whether a tax was  
26 dischargeable, the basis for its decision rests entirely within the tax code itself. And the Ninth  
27 Circuit’s finding only addresses the fact that Mr. Smith Form 1040 filing fails as a “return” because  
28 it does not “comply with the tax code.”

1 The purpose of this Complaint is to now determine the immediate ramifications of the  
2 Ninth Circuit's ruling as it relates directly and strictly to specific provisions of the Tax Code and  
3 Mr. Smith.

4 It is important to state that at no time has the IRS ever alleged that the Form 1040 Mr.  
5 Smith filed was inaccurate, fraudulent, or otherwise deficient or defective and the Ninth Circuit's  
6 Opinion raises no such issue. In other words, Mr. Smith filed the proper IRS form (government  
7 issued Form 1040 2001), the Form 1040 was unaltered and signed under penalty of perjury, and  
8 the Form 1040 disclosed all relevant income information to allow the IRS to make an accurate  
9 assessment. In fact, Mr. Smith's return reported \$104,000 of additional income than the IRS had  
10 a record of when it prepared an IRC Section 6020(b) Substitute Return against Mr. Smith. Rather  
11 it was actions or inactions of Mr. Smith in the past, in the years prior to filing, which caused the  
12 Form 1040 to fail as a "return" under the "tax code."

### 13

### 14 **III. Brief Case Law Background - Tax Origination Cases vs. Bankruptcy**

### 15 **Origination Cases**

16 While *Smith* originated as a bankruptcy case as noted above the Ninth Circuit correctly  
17 interpreted the Bankruptcy Code to require its decision and finding to be reached under the  
18 standards of tax law and the Ninth Circuit's decision is based solely upon the 'tax code.' But  
19 since the Tax Code does not define "return" any more than the Bankruptcy Code does the Ninth  
20 Circuit needed to rely upon case law precedent which essentially adopts a four-factor test to define  
21 "return" under the Tax Code.

22 Yet a careful review of the Ninth Circuit decision finds that the Court does not rely upon  
23 any actual tax law precedent but instead relies exclusively upon cases which originated in  
24 bankruptcy court. In its brief Opinion the Ninth Circuit literally fails to cite even a single tax-  
25 origination case either for or against its decision. So in reaching a decision strictly under the tax  
26 code, the Ninth Circuit fails to rely upon any actual tax cases or law. See Exhibit 1.

27 Why this is important is because only bankruptcy-origination cases like the ones the Ninth  
28 Circuit cites and ultimately adopts use a "subjective standard" for deciding whether a "return"



1 exists or not. In other words, these bankruptcy-origination cases and now *Smith* hold that the  
2 actions of the taxpayer in filing a Form 1040 may negate the Form 1040 qualifying as a “return”  
3 if the taxpayer’s actions or inaction in filing the Form 1040 lack of an “honest and reasonable  
4 attempt to satisfy the tax laws.”

5 The Ninth Circuit’s ruling is problematic, however, because *only* *Smith* and one other case,  
6 the recently decided Justice v. U.S.A., No. 15-10273 (11th Cir. March 30, 2016), use this *subjective*  
7 standard while also correctly holding that the Bankruptcy Code requires this finding to originate  
8 under the Tax Code and must use the tax definition of “return.” Thus the Ninth Circuit is applying  
9 the subjective standard directly to the tax code. But all other bankruptcy-origination decisions pre-  
10 dating *Smith* and *Justice* either totally ignore or directly contradict the requirement that “return”  
11 be defined using “nonbankruptcy law.” See i.e., In re Hindenlang, 164 F.3d 1029 (6th Cir. 1999)  
12 and In re Payne, 431 F.3d 1055 (7th Cir. 2005) (*Hindenlang* decided pre-BAPCA openly rejects  
13 the tax definition of “return” for Bankruptcy Code purposes, *Hindenlang*, at 1034; *Payne*, also  
14 decided under pre-BAPCA code, finds that there is no reason for the Bankruptcy Code definition  
15 of “return” to be the same as the Tax Code definition, *Payne*, at 1058).

16 Both *Hindenlang* and *Payne* were decided before the bankruptcy code was amended by  
17 Congress with BAPCA in 2005. It is BAPCA which specifically requires that the “non-bankruptcy  
18 definition” of “return” be used for the Bankruptcy Code, i.e., the tax code definition of return.  
19 Strangely, despite BAPCA’s specific and new requirement that the bankruptcy code use the tax  
20 definition, courts, **including** *Smith*, continue to cite pre-2005 bankruptcy law cases *Hindelang* and  
21 *Payne* favorably despite the fact that these court opinions *directly contradict or just ignore* the tax  
22 definition of “return” for bankruptcy purposes. So while BAPCA gives just one mandate - to use  
23 the “non-bankruptcy” definition – and such mandate should have nullified the decisions of  
24 *Hindenlang* and *Payne*, courts like *Smith* are instead relying upon these decisions to issue rulings  
25 which directly contradict BAPCA’s one mandate on this issue. It is truly a shame upon the law  
26 but one which we will gladly exploit for this case.

27 Perhaps this is why the IRS pursued the *Smith* and *Justice* cases in the first place (*Smith*  
28 was brought around the same time as *Justice*) - up until this time Circuits had allowed the IRS

1 victory by literally ignoring or directly contradicting the one actual mandate the Bankruptcy Code  
2 provides for how to define “return” under the Bankruptcy Code and ruling that the tax definition  
3 (Tax Code) is inapplicable to or is distinct from the Bankruptcy Code. So while *Smith* correctly  
4 understands that the court must use the tax code definition, it fails to understand that the cases it  
5 favorably cites did the exact opposite and in fact never issued a finding “under the tax code” as  
6 *Smith* has now done. *Hindenland* and *Payne* were careful not to let their “bankruptcy definition”  
7 equal the “tax definition.”

8 So if nothing else at least *Smith* got one part of the law correct and recognized that the  
9 Bankruptcy Code required its ruling to come from the “tax code” which allows us to bring this  
10 present action. Because the result is that *Smith* (and *Justice*) are the first cases in the history of US  
11 jurisprudence to nullify an otherwise-valid return (a Form 1040 that all parties seem to agree is  
12 accurate and complete) under the auspices that it fails as a return “under the tax code.”

13 And the result is that *Smith’s* adoption of a ‘subjective standard’ to define “return” under  
14 the tax code literally contradicts every single case originating under the tax code (i.e., all tax cases)  
15 from the Supreme Court on down. Tax-origination cases have without exception adopted an  
16 “objective, on the face of the return” standard when considering what is an “honest and reasonable  
17 attempt to satisfy the tax law” to make a “return” for purposes of the Tax Code.

18 It is 100% certain: every single tax case in the history of tax law explicitly reject the idea  
19 that the actions of the taxpayer – whether the taxpayer’s actions are honest or dishonest - have any  
20 bearing at all into the inquiry as to whether a Form 1040 qualifies as a “return” under the Tax  
21 Code. This is why the Ninth Circuit’s decision though it claims to be based upon the Tax Code  
22 *fails to mention even a single tax case* in support of its holding. While the Ninth Circuit issues a  
23 ruling based upon the “tax code” its opinion is literally devoid of a single tax-origination case to  
24 support its holding, instead relying exclusively upon bankruptcy-origination cases which directly  
25 contradict or ignore the tax definition of “return.” Of course the Ninth Circuit fails to provide any  
26 analysis regarding the face of the return Mr. Smith filed in adopting the “subjective standard.”

27 Ignoring the objective standard and adopting the incorrect subjective standard was the only  
28 way for the court to find for the IRS and thus the court had to ignore tax law and adopt a standard

1 created out of whole cloth in bankruptcy-origination cases. The ruling in *Smith* is the legal  
2 equivalent of the Ninth Circuit lifting itself and the law up by its own boot straps. It would be like  
3 the Ninth Circuit choosing to adopt a “preponderance of the evidence” civil law standard for all  
4 criminal cases in order to ensure conviction.

5 As proof of what the Ninth Circuit did, the two most significant **tax** cases which set the  
6 standards for defining “return” *explicitly reject* the ‘subjective standard’ in favor of an objective,  
7 “on the face of the return” standard for determining what is an “honest and reasonable attempt to  
8 satisfy the tax law.”

9 In Badarraco v. Commissioner of Internal Revenue, 464 U.S. 386 (1984), the Supreme  
10 Court addresses whether fraudulent returns – returns we all should be able to agree are *not* “honest  
11 and reasonable attempts to satisfy the tax laws” and which the Court itself states are *not* honest–  
12 still qualify as ‘returns’ under the tax code. Despite the taxpayers arguing the fraudulent returns  
13 were “nullities” because their personal actions in filing the returns were not “honest and  
14 reasonable,” the Supreme Court held:

15  
16 “In the instant cases, the original returns similarly purported to be returns, were sworn to  
17 as such, and **appeared on their faces** to constitute endeavors to satisfy the law. Although  
18 those returns, in fact, were *not honest*, the holding in Zellerbach does not render them  
19 nullities.” *Id.*, at 397 (referencing Zellerbach Paper Co. v. Helvering, 293 U.S. 172 (1934).  
(emphasis added).

20 *Badarraco* is clear: the dishonest and unreasonable actions of the taxpayer in filing the  
21 Form 1040 are **irrelevant** to the determination of whether a Form 1040 qualifies as a “return”  
22 under the tax code. What matters is simply the “face” of the form filed. Otherwise, a fraudulent  
23 return would inherently be a “nullity” and thus immune from prosecution and penalty.

24 In Beard v. Commissioner, 793 F.2d 139 (6th Cir. 1986) – the case which establishes the  
25 “Beard test” which all courts now use to determine whether a document qualifies as a “return” –  
26 the court states the following:

27  
28 “The Supreme Court noted that the Badaracco returns ‘purported to be returns, were sworn  
to as such and **appeared on their faces** to constitute endeavors to satisfy the. law.’”

1 Although fraudulent, these returns were *not* nullities...” Beard at 778 (emphasis added).  
2 In *Beard*, the court nullified a Form 1040 as a return because the taxpayer so desecrated the form  
3 that it failed to qualify as a “return.” But of course the taxpayer could simply file a Form 1040  
4 that was not altered and desecrated. Such option does not exist for Mr. Smith – his actions or  
5 inactions are personal ones, in the past, and therefore unchangeable.  
6

7 In the end *Smith* finds Mr. Smith’s behavior in filing an otherwise-valid Form 1040 even  
8 more despicable than an actual fraudulent return – so despicable that it nullifies an otherwise-valid  
9 return, a finding the Supreme Court outright rejected. The Supreme Court was clear, the honest  
10 or dishonest actions of the taxpayer are irrelevant to determining whether a “return” exists or not.

11 As the above demonstrates there is a dividing line as to how a “return” is defined by courts:  
12 bankruptcy-origination cases, including the recent *Smith* decision by the Ninth Circuit, set a  
13 “subjective standard” to what is “honest and reasonable” while tax-origination cases, and most  
14 importantly the US Supreme Court, set an “objective standard” – on the face of the return – for  
15 determining honesty/reasonableness

16 The two standards established in bankruptcy-origination and tax-origination cases are at  
17 direct odds with each other. Yet the Ninth Circuit’s holding confirms that its decision is based  
18 upon the tax code – Mr. Smith’s return failed to “comply with the Tax Code. Thus the Ninth  
19 Circuit is applying a made-up and improper standard to the tax code.

20 And since the Ninth Circuit completely ignores Supreme Court tax law and holds that Mr.  
21 Smith’s Form 1040 fails to qualify as a “return” because the actions of Mr. Smith in waiting so  
22 long to file his Form 1040 failed to evince an “honest and reasonable attempt to comply with the  
23 tax laws” while ignoring altogether whether the “face of the return” is valid, there must be direct  
24 and immediate consequences (and damage) to the tax code. Nullifying Mr. Smith’s “return” based  
25 upon an erroneous standard will alter how the tax code is applied to Mr. Smith.

26 *Smith* is a decision based upon the tax code that can not, and therefore does not, cite a  
27 single tax case in support. Every case *Smith* cites is another bankruptcy case applying the same  
28 made-up subjective standard. *Smith* is nothing more than a false prophet.

1 For purposes of this case, however, we are in support of *Smith* because we seek to ensure  
2 the consequences of *Smith* are now applied to the Tax Code in full force and fairness to Mr. Smith.  
3 *After all, if Mr. Smith does not get the benefit of filing a “return” under the Bankruptcy Code*  
4 *because his filing did not comply with the Tax Code, conversely the IRS does not get the benefit of*  
5 *Mr. Smith filing a “return” under the Tax Code.*

6 **III. Cause of Action Number 1 – Abatement of Taxes**

7 **The IRS lacked Statutory Authority to Assess the Additional Tax of \$40,095**

8 **Since Smith’s Return is a Legal Nullity**

9 Given that the Ninth Circuit has declared that the Form 1040 Smith filed is not a “return”  
10 under the “tax code” the IRS lacked legal authority to make the additional tax assessment of  
11 \$40,095 based strictly off the Form 1040 Mr. Smith filed in 2009.

12 It is well-established that a ‘purported return’ that is invalid is a non-return, a ‘nullity.’  
13 Zellerbach Paper Co. v. Helvering, 293 U.S. 172, 180 (1934).

14 In the present case since Mr. Smith’s Form 1040 legally failed to qualify as a “return” per  
15 the Ninth Circuit, thus Mr. Smith’s Form 1040 is a ‘non-return,’ a ‘nullity’ per the US Supreme  
16 Court.

17 As a nullity it is essentially invalid for **all** tax purposes, not just the time of assessment.  
18 Southern Sportswear Co. v. Commissioner, 10 T.C. 402, 405-06 (1948), vacated and remanded on  
19 other grounds, 175 F.2 779 (6th Cir. 1948) (per curium).

20 The IRS is well-aware of *Zellerbach* and *Southern Sportswear* and their impact because  
21 we cite these cases based upon Internal Revenue Service Office of Chief Counsel Memorandum  
22 dated February 4, 201. See Exhibit 2. Thus per the IRS’s own memo Mr. Smith’s tax filing in  
23 2009 was nothing more than a nullity and as such is invalid for all tax purposes. We are simply  
24 asking this court to apply the IRS’s own understanding of the law to this case and abate the  
25 additional assessment the IRS made which was based on what turns out to be a “nullity” – it never  
26 existed in the first place so how can it be the basis for a tax assessment.

27 The Ninth Circuit ruled Mr. Smith’s Form 1040 a “non-return.” The Supreme Court  
28 already tells us that a “non-return” is a “nullity” and the IRS’s own legal memorandum recognizes

1 that as a nullity it is invalid for all tax purposes.

2 Given that the IRS lacked legal authority to assess any taxes based upon a “nullity” the IRS  
3 must abate the additional tax of \$40,095 it assessed on November 11, 2009, plus applicable interest  
4 and penalties. It is impossible to make an assessment based upon a self-reporting if the Supreme  
5 Court tells us the self-reporting never happened.

6  
7 **V. Cause of Action Number 2 -Declaratory Relief**

8 **Since IRC Section 6012 Requires All Taxpayers to File a Return and Mr. Smith is**  
9 **Forever Incapable of Filing a Return, Mr. Smith Seeks Declaratory Relief from**  
10 **Complying with this Section of the Tax Code**

11  
12 The Ninth Circuit has already declared the Form 1040 Mr. Smith filed to be a non-return.  
13 And given that this finding was based solely upon unchangeable facts – waiting 7 years from the  
14 due date to file the return without any reasonable cause - there is literally nothing Mr. Smith can  
15 do to ever file a document that will qualify as a “return” under the Tax Code. After all, the Form  
16 1040 Mr. Smith filed appears in every way to be valid – it was on the correct form, the face of the  
17 return was not in any way marked or damaged, it was signed under penalty of perjury, and the  
18 Form 1040 reported over \$100,000 of income that the IRS had no knowledge of prior to the  
19 submission of the tax return. Since the Form 1040 is not deficient in any manner and the Ninth  
20 Circuit still nullified it as a “return,” it is without dispute that Mr. Smith is forever incapable, and  
21 thus permanently barred, from filing a document that will qualify as a ‘return’ within the Tax  
22 Code.

23 Yet 26 USC Section 6012 of the Internal Revenue Code, specifically Section  
24 6012(a)(1)(A), states:

25 “Returns with respect to income taxes... shall be made by... every individual having for  
26 the taxable year gross income which equals or exceeds the exemption amount...” (emphasis  
27 added).

1 IRC Section 6012 is essentially the heart and nerve center of the tax code. It is the code  
2 section which propels the rest of the tax code into action. And IRC Section 6012 is clear:

3 1) ‘Returns’ are required to be filed

4 2) The requirement to file a “return” is mandatory given the code provision states  
5 “shall” and not ‘may’ or ‘should’

6 3) “[E]very individual” who earns a certain amount of income is required to file

7 There is no exception to the filing requirement detailed in the tax code, whether because  
8 the IRS filed a Substitute Return or otherwise. No code provision relieves the duty to file if the  
9 threshold to file has been reached. Nor is there a statute of limitation provision within IRC Section  
10 6012 or any other section of the tax code which ends the requirement to file.

11 And the one and only requirement of IRC 6012 is to file a “return.”

12 Not a nullity.

13 Not a Form 1040.

14 A “return” is a legal term of art, a document that is so declared after meeting a certain set  
15 of requirements, perhaps best articulated by the *Beard* court and known as the “*Beard* test.” And  
16 one thing is certain: the Ninth Circuit in *Smith* declared that the otherwise-valid Form 1040 Mr.  
17 Smith filed did not satisfy the *Beard* test and is certainly not a “return” as that word is legally  
18 defined within the Tax Code.

19 Mr. Smith is an individual whose income in 2001 exceeded the exemption amount and yet  
20 the Ninth Circuit’s ruling means that Mr. Smith is incapable of ever complying with IRC Section  
21 6012 because he filed a perfectly valid Form 1040 yet it was not enough to ever qualify as a  
22 “return” because of the past and unchangeable actions of Mr. Smith.

23 We seek from this court a Declaration that Mr. Smith is relieved of complying with IRC  
24 Section 6012 with respect to tax year 2001 as it is a legal impossibility given the Ninth Circuit’s  
25 ruling is based upon unchangeable prior actions or inactions on the part of Mr. Smith and not the  
26 fact that there is a deficiency in form that can be corrected and re-submitted.

27 We further seek judicial nullification of IRS Revenue Ruling 2007-20. See Exhibit 3  
28 attached. Revenue Rulings are public administrative rulings by the IRS in the United States



1 Department of the Treasury of the United States federal government that apply the law to particular  
2 factual situations. A Revenue Ruling can be relied upon as precedent by all taxpayers and provides  
3 to the public the IRS's position on a specific issue or fact pattern.

4 Revenue Ruling 2007-20 states, in part:

5 "Finally, the Service is not obligated to make returns for taxpayers who fail to do  
6 so. Section 6020(b) merely provides the Service with the mechanism for  
7 determining the tax liability of a taxpayer who has not filed a return. Section  
8 6020(b) does not require the Service to prepare a tax return in any case, and **it does  
not excuse a taxpayer from the requirements to file [a return]...**" (Emphasis  
added).

9 Mr. Smith filed an otherwise-valid Form 1040 yet the Ninth Circuit still nullified it (at the  
10 IRS's request). Given the Ninth Circuit's Decision it is 100% certain that taxpayers who wait  
11 until after the IRS issues a IRC Section 6020(b) Substitute Return to file a Form 1040 and who  
12 lack reasonable cause or excuse are incapable of ever filing any document that will ever qualify as  
13 a "return" under the tax code. Thus in these circumstances Revenue Ruling 2007-20 may not be  
14 relied upon by taxpayers because Revenue Ruling 2007-20 is impossible for a taxpayer like Mr.  
15 Smith to satisfy.

16 In fact, per *Smith*, one of the main factors preventing compliance with Revenue Ruling  
17 2007-20 is the IRS issuing the Substitute Return in the first place. In a true twist of irony, it is the  
18 fact pattern described in Revenue Ruling 2007-20 which prevents a taxpayer from being able to  
19 comply with the Ruling's requirement. Here is how it works:

20 Revenue Ruling 2007-20 requires a taxpayer to file a "return" despite the existence of a  
21 Substitute Return, yet *Smith* tells us that the existence of a Substitute Return (absent reasonable  
22 cause) prevents a taxpayer from filing a "return."

23 The taxpayer is stuck in a classic case of Catch-22. Or perhaps Catch-1040 is a better  
24 description.

25 Mr. Smith must be excused from the requirements to file and the guidance provided by  
26 Revenue Ruling 2007-20 because it is legally impossible for him to comply with it. We request  
27 this court rebuke the IRS for issuing a false and incorrect Revenue Ruling per the IRS's own  
28 argument before the Ninth Circuit and revoke or nullify Revenue Ruling 2007-20.



1           **VI. Rule 23(a) Class Action Status Sought**

2           The issues in the present case are not unique to Mr. Smith. Any taxpayer who filed a return  
3 post-Substitute Return without ‘reasonable cause’ is in the exact same situation as Mr. Smith –  
4 unable to file a Form 1040 that will qualify as a tax return. Further, if a taxpayer has filed a Form  
5 1040 post-Substitute Return, lacks reasonable cause, and the Form 1040 reported additional  
6 taxable income which led to an additional tax assessment such assessment must be abated by the  
7 IRS just as is the case with Mr. Smith. With simply a nullity, there is no legal document upon  
8 which the IRS had the authority and/or information to make such additional assessment.

9           As for specific individuals, we currently represent dozens of taxpayers who have at least  
10 one of the issues raised in this Complaint. See Exhibit 4 attached for a partial list of litigation  
11 cases pending. As notated in Exhibit 4 several bankruptcy courts have already ruled against our  
12 clients on the basis that, following *Smith* and applying the **subjective** standard to the “*Beard*  
13 test”the taxpayer lacked reasonable cause for filing a return late post-Substitute Return and thus  
14 the taxpayer’s Form 1040 is not and will never be a “return” under the tax code. In fact, in every  
15 single case thus far brought before a court the taxpayer has lost and the judge and court have  
16 nullified an otherwise valid Form 1040 as a “return.” Taxpayers are thus far 0 for 5 and may soon  
17 be 0 for 7. Using a standard of tax law that the Supreme Court contradicts seems to be having an  
18 effect.

19           The number of cases we represent which have been resolved or are pending before various  
20 courts is sufficient to warrant class status. This does not even take into account other clients who  
21 have never filed bankruptcy nor future clients who visit our office who will have Substitute Returns  
22 filed against them, lack any ‘reasonable cause,’ and will wonder whether it is legally possible to  
23 comply with IRC Section 6012.

24           Attached as Exhibits 5 and 6 are redacted Notices of Deficiency for two separate taxpayers.  
25 The IRS has no procedures currently in place to determine whether “reasonable cause” exists post-  
26 Substitute Return. So if these taxpayer lack “reasonable cause” and do not timely file a Tax Court  
27 petition they will be in Mr. Smith’s exact predicament. Given that the Ninth Circuit’s ruling is  
28 based solely upon analysis of the Tax Code, all similar taxpayers are subject to its ruling and

1 affects.

2 Further, unlike Mr. Smith, these taxpayers' Notices of Deficiency involve tax years within  
3 the past 6 years. Thus now the criminal code section for "willful" non-filing, 26 U.S.C. Section  
4 7203, is also impacted by the *Smith* decision. We request Declaratory Relief as to whether a  
5 taxpayer who received a Substitute Return and lacks "reasonable cause" may be in violation of  
6 Section 7203 (willful failure to file) when the taxpayer may no longer even file a "return."  
7 Willfulness requires a choice and given *Smith* the choice is eliminated. The taxpayer simply may  
8 not file a "return" after the Substitute Return is issued and the taxpayer lacks "reasonable cause."

9 Also attached as Exhibit 7 are two redacted IRS transcripts from a non-bankrupt taxpayer  
10 and a bankrupt taxpayer. As with Mr. Smith, the IRS filed a Substitute Return and in both cases  
11 based upon the Forms 1040 filed post-Substitute Return the IRS assessed additional taxes in both  
12 cases (i.e., the IRS's Substitute Return assessments were lower than the taxpayer's self-filed Form  
13 1040 reported). In both cases the IRS has never determined whether "reasonable cause" exists to  
14 make the assessments it did and given the Ninth Circuit ruling in *Smith*, the IRS appears to have  
15 lacked any authority to make an assessment if the taxpayers lacked "reasonable cause" in filing  
16 the Form 1040 after the Substitute Return. All it would take to confirm the "nullity" is the taxpayer  
17 admitting they lacked "reasonable cause." To do so would mean the IRS lacked authority to assess  
18 the additional tax post-Substitute Return.

19 Finally, given that the IRS is not able to disclose individual taxpayer identities and thus  
20 cannot disclose specific taxpayers who have received Substitute Returns in the past, our effort to  
21 provide a complete list of potential plaintiffs is hindered. However, a simple disclosure from the  
22 IRS of the gross numbers of Substitute Returns the IRS has issued in the past 36 months without  
23 any specific taxpayer names will give us an idea of how many taxpayers may be affected by this  
24 action. It seems more than logical a good percentage of these taxpayers will have no valid excuse  
25 at all for waiting so long to file a return. The number of cases this firm is presently representing  
26 justifies class status but even assuming 2% of the taxpayers who received Substitute Returns within  
27 the past 3 years lack 'reasonable cause' class status is warranted (note: 2% is almost certainly low  
28 as every case this firm has litigated thus far has resulted in the court nullifying the tax return due

1 to the taxpayer lacking “reasonable cause.”).

2 The issue before this court affects numerous known taxpayers beyond Mr. Smith. Further,  
3 given how many Substitute Returns the IRS issues each and every year, there may be thousands  
4 or tens of thousands of taxpayers facing this exact issue.

#### 5 **IV. Conclusion and Request for Relief**

6 The decision in *Smith* is that Mr. Smith’s Form 1040 fails to qualify as a ‘return’ under the  
7 “tax code.” Applying such ruling to actual provisions of the tax code results in the IRS lacking  
8 any legal basis for making the additional assessment of taxes of \$40,095 against Mr. Smith on  
9 November 11, 2009. The IRS only knew of the additional income and had grounds to make the  
10 assessment based upon the voluntary filing of the Form 1040 under the belief that Mr. Smith was  
11 filing a “return” but the Ninth Circuit is clear it was not a “return.” As a ‘nullity’ per the Supreme  
12 Court, the Form 1040 never existed in the first place and the IRS had no basis for assessment.

13 Therefore, since there was never a filing upon which the IRS could take action the  
14 additional tax assessment must be abated by this court.

15 Second, we require declaratory relief from IRC Section 6012 since the Ninth Circuit’s  
16 ruling prohibits Mr. Smith from ever satisfying the requirement to file a ‘return.’ Given the Ninth  
17 Circuit ruling, Mr. Smith is like Sisyphus – capable of filing a ‘nullity’ in perpetuity.

18 Third, a class status should be granted to this complaint given the number of taxpayers  
19 presently facing the exact same issues as Mr. Smith - taxpayers who have already been issued  
20 Substitute Returns and lack reasonable cause for failing to file a Form 1040 prior to its issuance  
21 and/or taxpayers who have been assessed additional taxes based upon what the Ninth Circuit has  
22 already determined to be “nullities” and thus invalid for tax assessment purposes.

23 Finally, we seek any applicable attorney fees and/or damages warranted.

24 This court has an interesting task before it. The Ninth Circuit has issued a ruling based  
25 upon the Tax Code which directly contradicts established US Supreme Court tax law. We are  
26 requesting that this Court rule in our favor with respect to all causes of action based solely upon  
27 the Tax Code. Based upon such ruling if the IRS wishes to go back to the Ninth Circuit via appeal  
28 that will be entirely in the IRS’s discretion. But based upon current Ninth Circuit law which

1 contradicts US Supreme Court tax law precedent we are entitled to the exact relief requested as  
2 every claim and argument made in this Complaint is 100% correct.

3           Respectfully submitted to this court on September 18, 2017.  
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\_\_\_\_\_  
/S/

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Robert L. Goldstein, State Bar No 184226

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Attorney for Plaintiff, Martin D. Smith

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San Francisco, CA 94104

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Tel No: 415-391-8700; Fax No. 415-391-8701

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Email: rgoldstein@taxexit.com

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JS-CAND 44 (Rev. 06/17)

**CIVIL COVER SHEET**

The JS-CAND 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved in its original form by the Judicial Conference of the United States in September 1974, is required for the Clerk of Court to initiate the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS**  
 Martin D. Smith

**(b)** County of Residence of First Listed Plaintiff  
 (EXCEPT IN U.S. PLAINTIFF CASES)

**(c)** Attorneys (Firm Name, Address, and Telephone Number)  
 ROBERT GOLDSTEIN (SBN 184226), Law Offices of Robert L. Goldstein  
 100 Bush Street #501, San Francisco, CA 94104  
 Phone: (415) 391-8700

**DEFENDANTS**  
 Department of Treasury/ Internal Revenue Service

County of Residence of First Listed Defendant  
 (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

1 U.S. Government Plaintiff 3 Federal Question (U.S. Government Not a Party)

2 U.S. Government Defendant 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF		PTF	DEF
Citizen of This State	1	1	Incorporated or Principal Place of Business In This State	4	4
Citizen of Another State	2	2	Incorporated and Principal Place of Business In Another State	5	5
Citizen or Subject of a Foreign Country	3	3	Foreign Nation	6	6

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
110 Insurance	<b>PERSONAL INJURY</b>	625 Drug Related Seizure of Property 21 USC § 881	422 Appeal 28 USC § 158	375 False Claims Act
120 Marine	310 Airplane	690 Other	423 Withdrawal 28 USC § 157	376 Qui Tam (31 USC § 3729(a))
130 Miller Act	315 Airplane Product Liability	<b>LABOR</b>	<b>PROPERTY RIGHTS</b>	400 State Reapportionment
140 Negotiable Instrument	320 Assault, Libel & Slander	710 Fair Labor Standards Act	820 Copyrights	410 Antitrust
150 Recovery of Overpayment Of Veteran's Benefits	330 Federal Employers' Liability	720 Labor/Management Relations	830 Patent	430 Banks and Banking
151 Medicare Act	340 Marine	740 Railway Labor Act	835 Patent—Abbreviated New Drug Application	450 Commerce
152 Recovery of Defaulted Student Loans (Excludes Veterans)	345 Marine Product Liability	751 Family and Medical Leave Act	840 Trademark	460 Deportation
153 Recovery of Overpayment of Veteran's Benefits	350 Motor Vehicle	790 Other Labor Litigation	<b>SOCIAL SECURITY</b>	470 Racketeer Influenced & Corrupt Organizations
160 Stockholders' Suits	355 Motor Vehicle Product Liability	791 Employee Retirement Income Security Act	861 HIA (1395ff)	480 Consumer Credit
190 Other Contract	360 Other Personal Injury	<b>IMMIGRATION</b>	862 Black Lung (923)	490 Cable/Sat TV
195 Contract Product Liability	362 Personal Injury—Medical Malpractice	462 Naturalization Application	863 DIWC/DIWW (405(g))	850 Securities/Commodities/Exchange
196 Franchise	<b>CIVIL RIGHTS</b>	465 Other Immigration Actions	864 SSID Title XVI	890 Other Statutory Actions
<b>REAL PROPERTY</b>	440 Other Civil Rights		865 RSI (405(g))	891 Agricultural Acts
210 Land Condemnation	441 Voting	<b>HABEAS CORPUS</b>	<b>FEDERAL TAX SUITS</b>	893 Environmental Matters
220 Foreclosure	442 Employment	463 Alien Detainee	<input checked="" type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	895 Freedom of Information Act
230 Rent Lease & Ejectment	443 Housing/Accommodations	510 Motions to Vacate Sentence	871 IRS—Third Party 26 USC § 7609	896 Arbitration
240 Torts to Land	445 Amer. w/Disabilities—Employment	530 General		899 Administrative Procedure Act/Review or Appeal of Agency Decision
245 Tort Product Liability	446 Amer. w/Disabilities—Other	535 Death Penalty		950 Constitutionality of State Statutes
290 All Other Real Property	448 Education	<b>OTHER</b>		
		540 Mandamus & Other		
		550 Civil Rights		
		555 Prison Condition		
		560 Civil Detainee—Conditions of Confinement		

**V. ORIGIN** (Place an "X" in One Box Only)

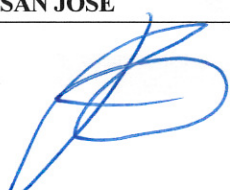
1 Original Proceeding    2 Removed from State Court    3 Remanded from Appellate Court    4 Reinstated or Reopened    5 Transferred from Another District (specify)    6 Multidistrict Litigation—Transfer    8 Multidistrict Litigation—Direct File

**VI. CAUSE OF ACTION** Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
 26 USC 6404(a)(3), Federal Rule Civil Procedure 57  
 Brief description of cause:  
 Claim for Abatement and Declaratory Relief

**VII. REQUESTED IN COMPLAINT:**  CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, Fed. R. Civ. P.    DEMAND \$ \_\_\_\_\_    CHECK YES only if demanded in complaint:  
 JURY DEMAND:    Yes    No

**VIII. RELATED CASE(S), IF ANY** (See instructions):    JUDGE    DOCKET NUMBER

**IX. DIVISIONAL ASSIGNMENT (Civil Local Rule 3-2)**  
 (Place an "X" in One Box Only)     SAN FRANCISCO/OAKLAND    SAN JOSE    EUREKA-MCKINLEYVILLE

DATE: 9/18/17    SIGNATURE OF ATTORNEY OF RECORD: 



# EXHIBIT

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FOR PUBLICATION

UNITED STATES COURT OF APPEALS  
— FOR THE NINTH CIRCUIT

IN RE MARTIN SMITH,  
*Debtor,*

MARTIN SMITH,  
*Plaintiff-Appellant,*

v.

UNITED STATES INTERNAL  
REVENUE SERVICE,  
*Defendant-Appellee.*

No. 14-15857

D.C. No.  
4:13-cv-00871-YGR

OPINION

Appeal from the United States District Court  
for the Northern District of California  
Yvonne Gonzalez Rogers, District Judge, Presiding

Argued and Submitted May 12, 2016  
San Francisco, California

Filed July 13, 2016

Before: Jerome Farris, Diarmuid F. O'Scannlain,  
and Morgan Christen, Circuit Judges.

Opinion by Judge Christen

**SUMMARY\***

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**Bankruptcy**

The panel affirmed the district court's order reversing the bankruptcy court and entering summary judgment in favor of the IRS in a debtor's adversary proceeding seeking a determination that his federal income tax liabilities were dischargeable in bankruptcy.

The panel held that the debtor's tax liabilities were non-dischargeable under 11 U.S.C. § 523(a)(1)(B)(i), which exempts from discharge any debt for a tax with respect to which a return was not filed. The panel held that the debtor's late-filed Form 1040 did not represent an honest and reasonable attempt to satisfy the requirements of the tax law, and he therefore did not file a "return" within the meaning of § 523(a)(1)(B)(i). Agreeing with other circuits, the panel held that *In re Hatton*, 220 F.3d 1070 (9th Cir. 2000), which adopted the Tax Court's widely-accepted definition of "return," applied to the bankruptcy code as since amended.

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**COUNSEL**

Robert L. Goldstein (argued), Law Offices of Robert L. Goldstein, San Francisco, California, for Plaintiff-Appellant.

Julie C. Avetta (argued) and Ellen Page DelSole, Attorneys; Tamara W. Ashford, Acting Assistant Attorney General; Tax

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\* This summary constitutes no part of the opinion of the court. It has been prepared by court staff for the convenience of the reader.



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Division, Department of Justice, Washington, D.C.; for Defendant-Appellee.

A. Lavar Taylor, Law Offices of Lavar Taylor, Santa Ana, California, as and for Amicus Curiae.

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### **OPINION**

CHRISTEN, Circuit Judge:

Martin Smith did not file a 2001 tax form on time. Instead, he filed a Form 1040 seven years after it was due, and three years after the IRS assessed a deficiency against him. Smith later filed for bankruptcy and sought to discharge his 2001 tax liability. The bankruptcy court permitted the discharge, but the district court reversed. Smith appeals the district court's ruling.

### **FACTUAL AND PROCEDURAL BACKGROUND**

After Martin Smith failed to timely file his 2001 tax forms, the IRS prepared a Substitute for Return or "SFR" based on information it gathered from third parties. In March 2006, the IRS mailed Smith a notice of deficiency. Smith did not challenge the notice of deficiency within the allotted 90 days and the IRS assessed a deficiency against him of \$70,662. Three years later, in May 2009, Smith filed a Form 1040 for the year 2001 on which he wrote "original return to replace SFR." On this late-filed form, Smith reported a higher income than the one the IRS calculated in its assessment, thereby increasing his tax liability. The IRS added the additional arrearage to its assessment. Two months after that, in July 2009, Smith submitted an offer in

compromise, hoping to resolve his tax liability. The IRS rejected his offer. Smith later lost his job and the IRS allowed him to pay his tax bill in monthly installments of \$150.

After about five months, Smith declared bankruptcy and sought to discharge his 2001 tax debt before the bankruptcy court. Smith and the IRS agreed that the increase in the assessment based on Smith's late-filed form was dischargeable, but they disputed whether the IRS's original \$70,662 assessment was also dischargeable. The bankruptcy court ruled that it was. The district court reversed. Smith appeals the district court's ruling. We have jurisdiction under 28 U.S.C. § 158(d), and we affirm the district court's order entering summary judgment in favor of the IRS.

### STANDARD OF REVIEW

This court reviews de novo the bankruptcy court's interpretation of the bankruptcy code. *In re Hatton*, 220 F.3d 1057, 1059 (9th Cir. 2000). We also review de novo a district court's order granting a motion for summary judgment. *Ditto v. McCurdy*, 510 F.3d 1070, 1075 (9th Cir. 2007).

### DISCUSSION

The bankruptcy code exempts from discharge "any . . . debt for a tax . . . with respect to which a return, or equivalent report or notice, if required . . . was not filed or given." 11 U.S.C. § 523(a)(1)(B)(i). In *In re Hatton*, we adopted the Tax Court's widely-accepted definition of "return." 220 F.3d at 1060 (internal citation omitted). There, we stated that "[i]n order for a document to qualify as a [tax] return: (1) it must purport to be a return; (2) it must be executed under penalty

of perjury; (3) it must contain sufficient data to allow calculation of tax; and (4) it must represent an honest and reasonable attempt to satisfy the requirements of the tax law.” *Id.* at 1060–61 (internal citation and quotation marks omitted).

When we decided *Hatton*, the bankruptcy code did not define “return,” *id.* at 1060, but Congress amended the bankruptcy code in 2005 and it added a definition. In pertinent part, the amendment reads:

For purposes of this subsection, the term “return” means a return that satisfies the requirements of applicable nonbankruptcy law (including applicable filing requirements).

11 U.S.C. § 523(a).

We have not interpreted this new definition, but both parties and several of our sister circuits agree that *Hatton*’s four-factor test still applies, *see In re Ciotti*, 638 F.3d 276, 280 (4th Cir. 2011); *In re Justice*, 817 F.3d 738, 740–41 (11th Cir. 2016); and the Tax Court has not wavered in its application of this common-law test in the sixteen years since we decided *Hatton*. *See, e.g., Estate of Sanders v. Comm’r of Internal Revenue*, 144 T.C. 63 (2015).

The parties’ dispute centers on whether Smith’s filing met the fourth requirement of the operative test: was his filing “an honest and reasonable attempt to satisfy the requirements of the tax law?” *Hatton* considered this question under similar circumstances. The taxpayer in *Hatton* failed to file a tax return and the IRS computed and assessed his tax liability by creating an SFR. *Hatton*, 220 F.3d at 1059. Throughout the



process, the IRS sent numerous notices to Hatton, but it received no responses. *Id.* Hatton finally met with the IRS more than seven years after the original return was due and more than four years after the IRS assessed a deficiency. *Id.* He did not dispute his liability and the IRS agreed to a \$200-a-month payment plan. *Id.* We held that Hatton’s “belated acceptance of responsibility” was not an honest and reasonable attempt to comply with the tax code. *Id.* at 1061.

Here, Smith failed to make a tax filing until seven years after his return was due and three years after the IRS went to the trouble of calculating a deficiency and issuing an assessment. Under these circumstances, Smith’s “belated acceptance of responsibility” was not a reasonable attempt to comply with the tax code. Many of our sister circuits have held that post-assessment tax filings are not “honest and reasonable” attempts to comply and are therefore not “returns” at all. *See In re Justice*, 817 F.3d at 746; *In re Payne*, 431 F.3d 1055, 1057–60 (7th Cir. 2005); *In re Moroney*, 352 F.3d 902, 907 (4th Cir. 2003); *In re Hindenlang*, 164 F.3d 1029, 1034–35 (6th Cir. 1999). *But see In re Colsen*, 446 F.3d 836, 840–41 (8th Cir. 2006). We need not decide the close question of whether *any* post-assessment filing could be “honest and reasonable” because these are not close facts; the IRS communicated with Smith for years before assessing a deficiency, and Smith waited several more years before responding to the IRS or reporting his 2001 financial information.

Smith argues that *Hatton*’s “honest and reasonable” inquiry requires looking only at the face of the filing, and that *Hatton*’s facts are distinguishable because Hatton did not file a tax form at all. We disagree. *Hatton* focused the “honest and reasonable” inquiry on the honesty and reasonableness of

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the taxpayer's conduct, not on any deficiency in the documents' form or content. *See Hatton*, 220 F.3d at 1061 ("Hatton made every attempt to avoid paying his taxes until the IRS left him with no other choice."). We hold that *Hatton* applies to the bankruptcy code as amended, and that Smith's tax filing, made seven years late and three years after the IRS assessed a deficiency against him, was not an "honest and reasonable" attempt to comply with the tax code.<sup>1</sup>

**AFFIRMED.**

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<sup>1</sup> The IRS argues that even if Smith's filing was a return, the deficiency it assessed against Smith was not a "debt for a tax . . . with respect to which" a return was filed because Smith had not yet filed anything when it assessed the deficiency. We do not reach this argument because we hold that Smith's filing was not a return.

# EXHIBIT

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Office of Chief Counsel  
Internal Revenue Service  
**memorandum**

CC:PA:02:SDMurray  
POSTN-102063-11

UILC: 6011.02-00; 6203.00-00; 6501.04-00; 6501.06-00

date: February 4, 2011

to: Carol G. Walker  
Supervisory Tax Analyst  
Customer Account Services (Wage & Investment)  
Attention: James A. Marlow

from: Pamela Wilson Fuller  
Senior Technician Reviewer  
(Procedure & Administration)

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subject: Validity of Tax Returns Filed with Stolen Social Security Numbers

This advice responds to your request for assistance dated January 6, 2011. This advice may not be used or cited as precedent.

ISSUES

1. Whether a taxpayer's individual income tax return that identifies the taxpayer by using a stolen or misappropriated social security number of someone else is a valid return that when filed starts the time for assessment of tax.
2. Assuming the tax return is invalid, whether for assessment purposes the IRS can treat the return as filed at the time (or anytime after) the IRS discovers the falsehood, rather than the original date of filing.

CONCLUSIONS

1. A taxpayer's misuse on an income tax return of another individual's SSN as the taxpayer's identifying number does not alone invalidate the return. If the tax return otherwise meets the established criteria for a valid return, the filing of the return will start the period for assessment, despite the false identifying number.
2. Given the conclusion on the first issue, the second issue is moot, as it is premised on our having reached an opposite conclusion. Also, because an invalid return is a nullity, nothing is "filed," hence there is no filing date that is even potentially susceptible

PMTA 2011-09



POSTN-102063-11

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to change or to being deemed as occurring on a date after the invalid return is received in a Service Center.

### FACTS

You requested this advice in connection with the processing of a certain category of identity-theft returns and the associated assessment of tax. These returns are typically filed by undocumented aliens who live and work in the United States but are here illegally. Because of their status, the workers do not have and are ineligible for an SSN. Presumably they also have not applied for and do not have an ITIN. With no number that identifies them as taxpayers, they sometimes provide to their employers for wage withholding and information reporting a stolen or misappropriated SSN of a person with the same name or one that closely matches. In the type of cases you are concerned with, the worker also uses the stolen or misappropriated SSN to file an individual income tax return reporting the earnings and the federal tax withheld. Additional income, as well as deductions and credits, may be included on the return, and the taxpayer will usually report an overpayment and claim a refund. Aside from the false SSN, the returns are unremarkable: they are filed in the taxpayer's real name, with a bona fide mailing address; they are complete (and computationally accurate) or substantially so; they are signed by the taxpayer under penalty of perjury; and they are not altered (such as to the jurat) and do not assert frivolous positions.

Because they appear to be ordinary returns, and unless the IRS has suspicions otherwise, the IRS generally processes the returns as it normally does, including mailing a refund check to the filer at the address provided or depositing the refund in an account designated on the return. The IRS understandably treats the return as that of the rightful holder of the SSN. The IRS creates an IMF account for the tax year of the return under the SSN given and posts to the account the filing of the return and subsequent transactions. The rightful holder of the SSN is most likely unaware of what has happened (and may even be unaware of the underlying identity theft). Similarly, the first time that the IRS recognizes a problem may be when the rightful holder of the SSN files a return for the same period.<sup>1</sup> Communications with the rightful holder of the SSN ultimately will reveal that the first return is an identity-theft return. At that point, the IRS must correct the rightful holder's account, including reversing the erroneous transactions and abating any assessments. At the same time, the IRS can create a new tax account for the identity-theft return using an administratively generated TIN assigned to the filer. The same return-based assessments conceivably can be made on the new account. By then, however, the three-year period to assess (if it applies) the identity-theft return may be over; this could result, for example, if the second return, which raises the red flag, is filed very late or if the resulting investigation and eventual resolution are delayed or protracted.

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<sup>1</sup> The factual situation presupposes, of course, that the return with the false SSN is filed first.



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LAW AND ANALYSIS

The limitations period to assess tax is generally three years after a tax return is filed (a return filed early is considered "filed" on the due date). I.R.C. § 6501(a), (b)(1). To start the period, a taxpayer must file a valid tax return. *Agri-Cal Venture Assocs. v. Commissioner*, T.C. Memo. 2000-271; *In re McKay*, 430 B.R. 246 (Bank. M.D. Fla. 2010). If a return is invalid, the limitations period does not begin and tax may be assessed at any time. *Bachner v. Commissioner*, 81 F.3d 1274, 1280 (3d Cir. 1996); I.R.C. § 6501(c)(3). Indeed, a purported return that is invalid is a non-return, a "nullity." *Zellerbach Paper Co. v. Helvering*, 293 U.S. 172, 180 (1934). As such, it is basically invalid for all tax purposes, not just the time for assessment. *Southern Sportswear Co. v. Commissioner*, 10 T.C. 402, 405-06 (1948), *vacated and remanded on other grounds*, 175 F.2d 779 (6th Cir. 1948) (per curium).

To be valid, a return must satisfy the well-known four-part *Beard* test: (1) the information on the return must be sufficient for the IRS to calculate tax liability; (2) the filed document must purport to be a return; (3) the return must be an honest and reasonable attempt to comply with the tax laws; and (4) the taxpayer must execute the return under penalties of perjury. *Beard v. Commissioner*, 82 T.C. 766, 777 (1984), *aff'd per curium*, 793 F.2d 139 (6th Cir. 1986). An imperfect return—one with mistakes or that is incomplete—can still be valid as a return of tax. *Oman v. Commissioner*, T.C. Memo. 2010-276 (citing *Zellerbach*, 293 U.S. at 180). Even a return that is in some way purposefully false or fraudulent is not necessarily invalid, *Badaracco v. Commissioner*, 464 U.S. 386 (1984), although as a matter of statutory exception (section 6501(c)(1)), the assessment period is unlimited if the taxpayer filed the false or fraudulent return with an intent to evade tax.

Certainly, taxpayers are under a general obligation to supply on a tax return whatever information is mandated on the form or in instructions or regulations. I.R.C. § 6011(a); Treas. Reg. § 1.6011-1(a); *Commissioner v. Lane-Wells Co.*, 321 U.S. 219, 223 (1944); *Parker v. Commissioner*, 365 F.2d 792, 800 (8th Cir. 1996). And a valid TIN is among the items of required information. I.R.C. § 6109(a); Treas. Reg. §§ 31.6109-1(a); Treas. Reg. § 301.6109-1(b)(1), (2); 2010 Form 1040 Instructions. Missing or incorrect information can affect the validity of a return, depending on how significant the defects are, but the operative question is whether the return as a whole complies with the *Beard* test. Notwithstanding the presence of a false identifying number, we conclude that the returns at issue comply with the *Beard* test based on their remaining characteristics. In particular, the return bears a signature, purports to be a return of tax, and overall represents a good-faith effort to comply with the internal revenue laws. It is not a frivolous submission or a sham.<sup>2</sup> If the return also contains enough information for the

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<sup>2</sup> Contrast that with the other principal type of identity-theft return, by which an identity thief uses not only a stolen SSN but also the victim's name and forged signature in an effort to fraudulently obtain a refund. In fact, the whole return or a large part of it may be fictitious. As we previously advised, such a return is a sham and is unquestionably invalid when analyzed under *Beard*. It is filed in subversion of the tax laws, not in conformance with them. Please note that if the problems with a taxpayer's return go beyond a false SSN and tend toward the other type of identity-theft return, then we might reach a different conclusion

POSTN-102063-11

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IRS to determine liability, the return is valid to start the assessment period. Any tax therefore must be assessed timely.

The *Beard* test is the dispositive authority for determining a return's validity. Even so, we looked for and not find any reported opinions factually on-point.<sup>3</sup> Consistent with our conclusion, however, courts have articulated as a general principle that an "omission of isolated information not seriously hampering the IRS's ability to check a taxpayer's asserted tax liability—for example, the omission of a taxpayer's social security number or the nondisclosure of the names of one's dependent children—does not invalidate a return under section 7203 [or 6501]." *United States v. Grabinski*, 727 F.2d 681, 686-87 (8th Cir. 1984).

#### CASE DEVELOPMENT, HAZARDS AND OTHER CONSIDERATIONS

This writing may contain privileged information. Any unauthorized disclosure of this writing may undermine our ability to protect the privileged information. If disclosure is determined to be necessary, please contact this office for our views.

Please call (202) 622-4940 if you have any further questions.

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about validity of the return. Also, exceptions could apply in some cases, such as section 6501(e)(1) (extending the assessment period to six years when there is an omission from gross income exceeding 25 percent).

<sup>3</sup> The Tax Court in one case suggested in dicta that purported income tax returns that did not contain the taxpayer's SSN or postal address might be invalid, but the court did not reach the issue, holding instead that based on transcripts of account admitted into evidence the returns were never filed. *Lunn v. Commissioner*, T.C. Memo. 1987-435.

### Statement of Related Cases

The following is a PARTIAL list of cases the Law Offices of Robert L. Goldstein is handling which are pending or decided based upon the Ninth Circuit *Smith* case.

- Heinrich, Bankruptcy Case # 15-25496 (E.D.)  
Result: Judge nullified the Form 1040 as a “return”
- Peterson, Bankruptcy Case # 14-24756 (E.D.)
- Fernandez, Bankruptcy Case #14-50968(N.D.)  
Result: Judge nullified the Form 1040 as a “return”
- Contreras, Bankruptcy Case # 11-58290(N.D.)
- Seifert, Bankruptcy Case # 12-42162(N.D.)  
Result: Judge nullified the Form 1040 as a “return”
- Young, Bankruptcy Case # 12-31349(N.D.)  
Result: Judge nullified a joint tax return with respect to husband. IRS conceded a “return” existed only for the wife, despite fact it was exact same legal document.
- Smith, Bankruptcy Case # 13-31720(N.D.)
- Fields, Bankruptcy Case # 13-31401(N.D.)
- Collier, Bankruptcy Case # 15-10339(N.D.)

# EXHIBIT

3



## Internal Revenue Bulletin: 2007-14

April 2, 2007

Rev. Rul. 2007-20

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**Frivolous tax returns; voluntary compliance.** This ruling discusses and refutes the frivolous position taken by some taxpayers that complying with the internal revenue laws is purely voluntary and that taxpayers are not legally required to file federal tax returns or pay federal tax because the filing of a tax return or the payment of tax is a matter of choice.

**PURPOSE**

The Internal Revenue Service (Service) is aware that some taxpayers assert that compliance with the internal revenue laws is purely voluntary, specifically, that they are not required to file federal tax returns or pay federal tax because the filing of a tax return or the payment of tax is a matter of choice. Taxpayers who take this position argue that the Form 1040 Series instructions provide that filing a return and paying tax are voluntary and not mandatory. Often quoting from the Supreme Court's opinion in *Flora v. United States*, 362 U.S. 145, 176 (1960), they claim that "[o]ur system of taxation is based upon voluntary assessment and payment, not upon distraint." Some of these taxpayers also contend that section 6020(b) of the Internal Revenue Code requires the Service to prepare a federal tax return for any person who does not file a return, which, according to these taxpayers, means that they are not required to file a return.

This revenue ruling emphasizes to taxpayers, promoters, and return preparers that the requirements to file a tax return and pay the tax that is due are not optional. Any position to the contrary has no merit and is frivolous.

The Service is committed to identifying taxpayers who attempt to avoid their federal tax obligations by taking frivolous positions. The Service will take vigorous enforcement action against these taxpayers and against promoters and return preparers who assist taxpayers in taking these frivolous positions. Frivolous returns and other similar documents submitted to the Service are processed through the Service's Frivolous Return Program. As part of this program, the Service determines whether taxpayers who have taken frivolous positions have filed all required tax returns, computes the correct amount of tax and interest due, and determines whether civil or criminal penalties should apply. The Service also determines whether civil or criminal penalties should apply to return preparers, promoters, and others who assist taxpayers in taking frivolous positions, and recommends whether an injunction should be sought to halt these activities. Other information about frivolous tax positions is available on the Service website at [www.irs.gov](http://www.irs.gov).

**ISSUE**

Whether filing a tax return or paying tax is voluntary.

**FACTS**

Taxpayer A claims that he is not required to file a federal income tax return or pay income taxes because filing a return and paying tax are "voluntary" activities that he can legitimately opt not to do. Taxpayer A further claims that if a tax return is required, the Service must prepare it for the taxpayer.

**LAW AND ANALYSIS**

Effective tax administration relies on taxpayers willingly complying with the tax laws, but taxpayers do not have the right to choose whether the laws apply to them. References to a "voluntary" tax system in *Flora*, *supra*, and in Service publications, mean a system that allows taxpayers to determine, in the first instance, the correct amount of their tax and to report their liability on appropriate returns, rather than having the government make the determinations for them. See *Hibbs v. Winn*, 542 U.S. 88, 100 n.3 (2004) ("[T]he taxpayer, not the taxing authority, is the first party to make the relevant calculation of income taxes owed.") (Emphasis added). "Voluntary" in this context does not mean that taxpayers may opt out of the system. As stated in *United States v. Schiff*, 876 F.2d 272, 275 (2d Cir. 1989):

To the extent that income taxes are said to be "voluntary," . . . they are only voluntary in that one files the returns and pays the taxes without the IRS first telling each individual the amount due and then forcing payment of that amount. The payment of income taxes is not optional, however, . . . and the average citizen knows that the payment of income taxes is legally required.

See also *United States v. Middleton*, 246 F.3d 825, 840-41 (6th Cir. 2001); *United States v. Raymond*, 228 F.3d 804, 812-13 (7th Cir. 2000); *United States v. Gerads*, 999 F.2d 1255, 1256 (8th Cir. 1993); *Wilcox v. Commissioner*, 848 F.2d 1007, 1008 (9th Cir. 1988); *United States v. Tedder*, 787 F.2d 540, 542 (10th Cir. 1986); *Moore v. Commissioner*, 722 F.2d 193, 196 (5th Cir. 1984); *Woods v. Commissioner*, 91 T.C. 88, 90 (1988).

Any suggestion that taxpayers may elect not to file returns or pay tax ignores the laws that affirmatively and unambiguously establish these requirements. Specifically, the requirement to pay income taxes is clearly established in section 1 of the Internal Revenue Code, which imposes a tax on the taxable income of individuals, estates, and trusts as determined by the tables set forth in that section, and section 11, which imposes a tax on the taxable income of corporations. The requirement to file an income tax return is explicitly stated in sections 6011(a), 6012(a), and 6072(a) and corresponding Treasury Regulations. In addition, section 6151 requires taxpayers to submit payment of their taxes with their tax returns. Under these provisions of the Code, any taxpayer who has received more than a statutorily determined amount of gross income during the tax year is required to file a return for the year and pay tax on the income.

Case 3:17-cv-05394 Document 1-4 Filed 09/18/17 Page 3 of 3

Underlying the fallacy of any position that filing a tax return or paying tax is voluntary is the existence of civil and criminal penalties for failing to file or pay. See *Walters*, 395 U.S. 629 (1970) (“In assessing income taxes the Government relies primarily upon the disclosure by the taxpayer of the relevant facts . . . [on an] annual return [backed up by] . . . sanctions [that] may . . . be either criminal or civil.”) If, as some taxpayers claim, reporting and paying taxes were optional, penalties for noncompliance would not exist and would not be routinely imposed and upheld.

Section 6651(a) imposes an addition to tax for failure to file a required tax return or pay tax unless the failure is due to reasonable cause and not willful neglect. Section 7203 imposes a criminal penalty (in addition to the civil penalty) for willfully failing to file a return or pay tax.

Finally, the Service is not obligated to make returns for taxpayers who fail to do so. Section 6020(b) merely provides the Service with a mechanism for determining the tax liability of a taxpayer who has not filed a return. Section 6020(b) does not require the Service to prepare a tax return in any case, and it does not excuse a taxpayer from the requirements to file and pay or from liability for unpaid taxes, plus civil and criminal penalties for the failure to file or pay.

#### **HOLDING(S)**

Taxpayer A must file income tax returns if the income threshold is met and must pay the correct amount of income taxes owed. Compliance with the internal revenue laws, including filing tax returns and paying tax, is not optional. Further, the Service’s authority to prepare a return under section 6020(b) does not relieve a taxpayer of the obligation to file a tax return or pay tax. Any claim by Taxpayer A that one may lawfully opt not to file a return or pay tax is frivolous.

The Service will challenge the claims of individuals who improperly attempt to avoid or evade their federal tax liability.

#### **CIVIL AND CRIMINAL PENALTIES**

The position described above—that the law permits a taxpayer to choose not to file an income tax return or pay income taxes because these acts are voluntary—is a frivolous position for purposes of section 6702(c). The Service will challenge the claims of individuals who attempt to improperly avoid or evade their federal tax liability. In addition to liability for the tax due plus statutory interest, taxpayers who fail to file valid returns or pay taxes, face substantial civil and criminal penalties. Potentially applicable civil penalties include: (1) the section 6662 accuracy-related penalties, which are generally equal to 20 percent of the amount of tax the taxpayer should have paid; (2) the section 6663 penalty for civil fraud, which is equal to 75 percent of the amount of tax the taxpayer should have paid; (3) the section 6702(a) penalty of \$5,000 for filing a document that purports to be a return and that contains a frivolous position or suggests a desire by the taxpayer to delay or impede the administration of federal tax laws; (4) the section 6702(b) penalty of \$5,000 for submitting a “specified frivolous submission”; (5) the section 6651 additions to tax for failure to file a return, failure to pay the tax owed, and fraudulent failure to file a return; (6) the section 6673 penalty of up to \$25,000 if the taxpayer makes frivolous arguments in the United States Tax Court; and (7) the section 6682 penalty of \$500 for providing false information with respect to withholding.

Taxpayers relying on this frivolous position also may face criminal prosecution under: (1) section 7201 for attempting to evade or defeat tax, the penalty for which is a significant fine and imprisonment for up to 5 years; (2) section 7203 for willful failure to file a return, the penalty for which is a significant fine and imprisonment for up to a year; (3) section 7206 for making false statements on a return, statement, or other document, the penalty for which is a significant fine and imprisonment for up to 3 years; and (4) other federal laws as applicable.

Persons, including return preparers, who promote this frivolous position and those who assist taxpayers in claiming tax benefits based on frivolous positions may face civil and criminal penalties and also may be enjoined by a court pursuant to sections 7407 and 7408. Potential penalties include: (1) a \$250 penalty under section 6694 for each return or claim for refund prepared by an income tax return preparer who knew or should have known that the taxpayer’s position was frivolous (or \$1,000 for each return or claim for refund if the return preparer’s actions were willful, intentional, or reckless); (2) a penalty under section 6700 for promoting abusive tax shelters; (3) a \$1,000 penalty under section 6701 for aiding and abetting the understatement of tax; (4) criminal prosecution under section 7206, for which the penalty is a significant fine and imprisonment for up to 3 years, for assisting with or advising on the preparation of a false return, statement, or other document under the internal revenue laws; and (5) other federal laws as applicable.

#### **DRAFTING INFORMATION**

This revenue ruling was authored by the Office of Associate Chief Counsel (Procedure & Administration), Administrative Provisions and Judicial Practice Division. For further information regarding this revenue ruling, contact that office at (202) 622-7950 (not a toll-free call).

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# EXHIBIT

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### Statement of Related Cases

The following is a PARTIAL list of cases the Law Offices of Robert L. Goldstein is handling which are pending or decided in bankruptcy court based upon the Ninth Circuit *Smith* case.

- *Heinrich*, Bankruptcy Case # 15-25496 (E.D.)  
Result: Judge nullified the Form 1040 as a “return”
- *Peterson*, Bankruptcy Case # 14-24756 (E.D.)  
Status: IRS is in process of filing Motion for Summary Judgment or request for trial to nullify the Form 1040 as a “return.”
- *Fernandez*, Bankruptcy Case #14-50968(N.D.)  
Result: Judge nullified the Form 1040 as a “return”
- *Contreras*, Bankruptcy Case # 11-58290(N.D.)
- *Seifert*, Bankruptcy Case # 12-42162(N.D.)  
Result: Judge nullified the Form 1040 as a “return”
- *Young*, Bankruptcy Case # 12-31349(N.D.)  
Result: Judge nullified a joint tax return with respect to husband. IRS conceded a “return” existed only for the wife. So the exact same legal document was a nullity for one spouse but not the other.
- *Smith*, Bankruptcy Case # 13-31720(N.D.)  
Status: IRS recently filed a Motion for Summary Judgment seeking to nullify the Form 1040 filed as a “return.”
- *Fields*, Bankruptcy Case # 13-31401(N.D.)



- *Collier*, Bankruptcy Case # 15-10339 (N.D.)
- *Hamidi*, Bankruptcy Case #15-04036 (N.D.)
- *Miller*, Bankruptcy Case #13-03235
- *Van Arsdale*, Bankruptcy Case #14-4035 (N.D.)

Result: Judge nullified the Form 1040 as a return

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# EXHIBIT

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Department of the Treasury  
Internal Revenue Service  
Ogden, UT 84201-0040

Letter Number: 3219(SC/CG)  
Letter Date: July 24, 2017

Taxpayer Identification Number:

9307110756204212199885

Tax Form: 1040

Tax Year Ended and Deficiency

DECEMBER 31, 2013 \$21,986.00

Contact Person:

MR. CARVER1000099691

Contact Telephone Number:

(866) 897-0161

(TOLL FREE NUMBER)

Hours to Call:


7:00 AM - 7:00 PM MST M-F

Last Date to Petition Tax Court:

October 23, 2017

Penalties/Additions to Tax

IRC Section 6651(a)(1)	4,946.85
IRC Section 6654(a)	394.79
IRC Section 6651(a)(2)	4,177.34

  
%ROBERT L GOLDSTEIN  
100 BUSH ST STE 501  
SAN FRANCISCO, CA 94104-3908264

7:00 AM - 7:00 PM MST M-F

Last Date to Petition Tax Court:

October 23, 2017

Penalties/Additions to Tax

IRC Section 6651(a)(1)	4,946.85
IRC Section 6654(a)	394.79
IRC Section 6651(a)(2)	4,177.34

Dear Taxpayer:

We have determined that there is a deficiency (increase) in your income tax as shown above. This letter is your NOTICE OF DEFICIENCY, as required by law. The enclosed statement shows how we figured the deficiency.

If you want to contest this determination in court before making any payment, you have until the Last Date to Petition Tax Court (90 days from the date of this letter or 150 days if the letter is addressed to you outside the United States) to file a petition with the United States Tax Court for a redetermination of the amount of your tax. You can get a petition form and the rules for filing a petition from the Tax Court. You should file the petition with the United States Tax Court 400 Second Street NW, Washington D.C. 20217. Attach a copy of this letter to the petition.

The time in which you must file a petition with the court (90 days or 150 days as the case may be) is fixed by law and the Court cannot consider your case if the petition is filed late. As required by law, separate notices are sent to spouses. If this letter is addressed to both a husband and wife, and both want to petition the Tax Court, both must sign the petition or each must file a separate, signed petition.

The Tax Court has a simplified procedure for small tax cases when the amount in dispute is \$50,000 or less for any one tax year. You can also get information about this procedure, as well as a petition form you can use, by writing to the Clerk of the United States Tax Court at 400 Second Street, NW, Washington, D.C. 20217. You should write promptly if you intend to file a petition with the Tax Court.

If you decide not to file a petition with the Tax Court, please sign and return the enclosed waiver form to us. This will permit us to assess the deficiency quickly and will limit the accumulation of interest. We've enclosed an envelope you can use. If you decide not to sign and return the waiver and you do not petition the Tax Court, the law requires us to assess and bill you for the deficiency after 90 days from the date of this letter (150 days if this letter is addressed to you outside the United States).

008995

(Rev. June 1992)

NOTICE OF DEFICIENCY - WAIVER

Name and Address of Taxpayer(s)

July 24, 2017

%ROBERT L GOLDSTEIN  
100 BUSH ST STE 501  
SAN FRANCISCO, CA 94104-3908264

Kind of Tax

INDIVIDUAL INCOME

Copy to Authorized Representative

ROBERT L GOLDSTEIN

Tax Year Ended

DECEMBER 31, 2013

DEFICIENCY

Increase in Tax	\$21,986.00	Penalties
IRC Section 6651(a)(1)		4,946.85
IRC Section 6654(a)		394.79
IRC Section 6651(a)(2)		4,177.34

I consent to the immediate assessment and collection of the deficiencies (increase in tax and penalties) shown above, plus any interest. Also, I waive the requirement under section 6532(a)(1) of the Internal Revenue Code that a notice of claim disallowance be sent to me by certified mail for any overpayment shown on the attached report. I understand that the filing of this waiver is irrevocable and it will begin the 2-year period for filing suit for refund of the claims disallowed as if the notice of disallowance had been sent by certified or registered mail.

Signature		Date
		Date
	By	Title

Note: If you consent to the assessment of the deficiencies shown in this waiver, please sign and return this form to limit the interest charge and expedite our bill to you. Please do not sign and return any prior notices you may have received. Your consent signature is required on this waiver, even if fully paid.

If you later file a claim and the Service disallows it, you may file suit for refund in a District Court or in the United States Claims Court, but you may not file a petition with the United States Tax Court.

Who Must Sign: If you filed jointly, both you and your spouse must sign. Your attorney or agent may sign this waiver provided that action is specifically authorized by a power of attorney which, if not previously filed, must accompany this form.

Your consent will not prevent you from filing a claim for refund (after you have paid the tax) if you later believe you are so entitled; nor prevent us from later determining, if necessary, that you owe additional tax; nor extend the time provided by law for such action.

If this waiver is signed by a person acting in a fiduciary capacity (for example, an executor, administrator, or a trustee), Form 56, Notice Concerning Fiduciary Relationship, should, unless previously filed, accompany this form.

If you agree, please sign and return this form; keep one copy for your records.



Form <b>4549</b> (Rev. May 2008)	Department of the Treasury-Internal Revenue Service <b>Income Tax Examination Changes</b>		Page 1 of 2
Name and Address of Taxpayer  ██████████ ██████████ RUTHERFORD AVE ██████████	Taxpayer Identification Number ██████████	Return Form No: 1040	
	Person with whom examination changes were discussed.	Name and Title	
<b>1. Adjustments to Income</b>	<b>Period End</b> 12/31/2013	<b>Period End</b>	<b>Period End</b>
a. Nonemployee Compensation	76,441.00		
b. SE AGI Adjustment	(5,401.00)		
c. Standard Deduction	(6,100.00)		
d. Exemptions	(3,900.00)		
e.			
f.			
g.			
h.			
i.			
j.			
k.			
l.			
m.			
n.			
o.			
p.			
<b>2. Total Adjustments</b>	61,040.00		
<b>3. Taxable Income Per Return or as Previously Adjusted</b>	0.00		
<b>4. Corrected Taxable Income</b>	61,040.00		
Tax Method	TAX TABLE		
Filing Status	Single		
<b>5. Tax</b>	11,185.00		
<b>6. Additional Taxes / Alternative Minimum Tax</b>			
<b>7. Corrected Tax Liability</b>	11,185.00		
<b>8. Less Credits</b>			
a.			
b.			
c.			
d.			
<b>9. Balance</b> (Line 7 less Lines 8a through 8d)	11,185.00		
<b>10. Plus</b>			
Other Taxes			
a. Self Employment Tax	10,801.00		
b.			
c.			
d.			
<b>11. Total Corrected Tax Liability</b> (Line 9 plus Lines 10a through 10d)	21,986.00		
<b>12. Total Tax Shown on Return or as Previously Adjusted</b>	0.00		
<b>13. Adjustments to:</b>			
a.			
b.			
c.			
<b>14. Deficiency-Increase in Tax or (Overassessment-Decrease in Tax)</b> (Line 11 less Line 12 adjusted by Lines 13a through 13c)	21,986.00		
<b>15. Adjustments to Prepayment Credits - Increase (Decrease)</b>			
<b>16. Balance Due or (Overpayment) -</b> (Line 14 adjusted by Line 15) (Excluding interest and penalties)	21,986.00		

The Internal Revenue Service has agreements with state tax agencies under which information about federal tax, including increases or decreases, is exchanged with the states. If this change affects the amount of your state income tax, you should amend your state return by filing the necessary forms

You may be subject to backup withholding if you underreport your interest, dividend, or patronage dividend income you earned and do not pay the required tax. The IRS may order backup withholding (*withholding of a percentage of your dividend and/or interest income*) if the tax remains unpaid after it has been assessed and four notices have been issued to you over a 120-day period.

Name of Taxpayer: **DAVENA BENTEN**

05/22/2017

Identification Number: **XXXXXXXXXX**

Total

18,20.00

**2013 - Form 6251 - Alternative Minimum Tax Computation**

1. If filing Schedule A, enter taxable income before exemptions; otherwise, enter adjusted gross income	71,040.00
2. Total adjustment and preferences (excluding any NOL deduction)	0.00
3. Net operating loss deduction	0.00
4. Alternative tax net operating loss deduction	0.00
5. Alternative minimum taxable income (combine lines 1 thru 4)	71,040.00
6. Exemption amount	51,900.00
7. Subtract line 6 from line 5 (if zero or less, enter zero)	19,140.00
8. If capital gains are reported, use the amount from line 29 of the continuation page (If FEIT worksheet for AMT is used, enter amount from line 6 of that worksheet instead) All others, multiply line 7 by 26% and subtract \$0 from the result	4,976.00
9. Alternative minimum tax foreign tax credit	0.00
10. Tentative minimum tax (line 8 less line 9)	4,976.00
11. Regular tax less foreign tax credit (if Schedule J was used to figure tax, use the refigured amount for line 44 of Form 1040 without using Schedule J)	11,185.00
12. Alternative minimum tax	0.00

## Exemption Worksheet (line 6 above)

A. Exemption amount based on filing status	51,900.00
B. Alternative minimum taxable income	71,040.00
C. Enter amount based on filing status	115,400.00
D. Subtract line C from line B	0.00
E. Multiply line D by 25%	0.00
F. Subtract line E from line A (if zero or less, enter zero)	51,900.00



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Name of Taxpayer: [REDACTED]  
 Identification Number: [REDACTED]

05/22/2017  
 18.20.00

Total

2013 - SCHEDULE SE - COMPUTATION OF SELF-EMPLOYMENT TAX

Primary

1. Self-employment income	76,441.00
2. Multiply line 1 by 92.35%	70,593.26
3. Farm optional method income	0.00
4. Nonfarm optional method income	0.00
5. Earnings subject to self-employment tax (sum of 2, 3, 4)	70,593.26
6. Maximum earnings subject to social security	113,700.00
7. Social security wages and tips from W-2	0.00
8. Unreported tips subject to social security tax from Form 4137	0.00
9. Wages subject to social security tax from Form 8919	0.00
10. Sum of lines 7, 8 and 9	0.00
11. Line 6 less line 10	113,700.00
12. Multiply the smaller of line 5 or 11 by 12.40%	8,753.56
13. Multiply line 5 by 2.90%	2,047.20
14. Self-employment tax (sum of lines 12 and 13)	10,800.76

Secondary

1. Self-employment income	0.00
2. Multiply line 1 by 92.35%	0.00
3. Farm optional method income	0.00
4. Nonfarm optional method income	0.00
5. Earnings subject to self-employment tax (sum of 2, 3, 4)	0.00
6. Maximum earnings subject to social security	113,700.00
7. Social security wages and tips from W-2	0.00
8. Unreported tips subject to social security tax from Form 4137	0.00
9. Wages subject to social security tax from Form 8919	0.00
10. Sum of lines 7, 8 and 9	0.00
11. Line 6 less line 10	0.00
12. Multiply the smaller of line 5 or 11 by 12.40%	0.00
13. Multiply line 5 by 2.90%	0.00
14. Self-employment tax (sum of lines 12 and 13)	0.00

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Name of Taxpayer: [REDACTED]  
 Identification Number: [REDACTED]

05/22/2017

Total

18.20.00

## EXPLANATION OF THE DELINQUENCY PENALTY

Since your income tax return was not filed within the time limit prescribed by law and/or the tax was not paid, and you have not shown that such failure was due to reasonable cause, an addition to the tax is charged as shown below, in accordance with Section 6651(a)(1) and/or Section 6651(a)(2) of the Internal Revenue Code.

## 2013 - DELINQUENCY PENALTY

008995	1. Delinquency penalty abated		0.00
	2. Date return due	04/15/2014	
	3. Date return filed	05/22/2017	
	4. Failure to File penalty rate	0.225	
	5. Failure to Pay penalty rate	0.190	
	6. Total corrected tax liability		21,986.00
	7. Allowable payments on or prior to due date of return		0.00
	8. Net Amount Due (line 6 less line 7)		21,986.00
	9. Failure to File Penalty - line 8 multiplied by line 4		4,946.85
	10. Minimum penalty if over 60 days delinquent		135.00
	11. Failure to File Penalty - Greater of line 9 or line 10		4,946.85
	12. Previously assessed/previously agreed Failure to File Penalty		0.00
	13. Net Failure to File Penalty - line 11 less line 12		4,946.85
	14. Failure to Pay Penalty - line 8 multiplied by line 5		4,177.34
	15. Previously assessed/previously agreed Failure to Pay Penalty		0.00
	16. Net Failure to Pay Penalty - line 14 less line 15 *		4,177.34
	17. Total Delinquency Penalty - Sum of line 13 and 16		9,124.19

\* If an amount appears as the Failure to Pay Penalty, the amount only reflects the addition to tax under Internal Revenue Code section 6651(a)(2) through the date of this notice. The addition to tax will continue to accrue from the due date of the return at a rate of 0.5 percent each month, or fraction thereof, of nonpayment, not exceeding 25 percent.

Name of Taxpayer: [REDACTED]  
 Identification Number: [REDACTED]

Total

05/22/2017  
 18.20.00

## 2013 - EXPLANATION OF THE ESTIMATED TAX PENALTY

Since you did not pay sufficient estimated tax, addition to the tax is charged as shown below, in accordance with Section 6654(a) of the Internal Revenue Code.



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1. Total corrected tax liability, Form 4549, line 11 (Tax Per Return, if a return was filed)					21,986.00
2. Refundable Credits					0.00
3. Withholding taxes					0.00
4. Line 1 less sum of lines 2 & 3 (if less than \$1000, estimated penalty does not apply)					21,986.00
5. 90% of the sum of line 1 less line 2					19,787.40
6. Prior year tax liability (100% of prior year tax except*)					0.00
7. The smaller of line 5 or 6 (as adjusted)					19,787.40
8. Payment Due Date	Apr 15, 2013	Jun 15, 2013	Sep 15, 2013	Jan 15, 2014	
9. Payment Required	4,946.85	4,946.85	4,946.85	4,946.85	
10. Payments & Credits	0.00	0.00	0.00	0.00	
11. Overpayment from line 17		0.00	0.00	0.00	
12. Total of lines 10 & 11		0.00	0.00	0.00	
13. Previous Qtr Underpayment		4,946.85	9,893.70	14,840.55	
14. Line 12 less line 13	0.00	0.00	0.00	0.00	
15. Remaining Underpayment		4,946.85	9,893.70		
16. Underpayment	4,946.85	4,946.85	4,946.85	4,946.85	
17. Overpayment	0.00	0.00	0.00	0.00	
18. Penalty	148.40	123.60	86.20	36.59	
19. Previously Assessed/Previously Agreed Estimated Tax Penalty					0.00
20. Estimated Tax Penalty					394.79

\* If the prior year AGI was > \$150,000 (\$75,000 if MFS): use 110% of prior year tax.

Name Of Taxpayer: ██████████

05/22/2017

Identification Number: ██████████

Total

18.20.00

2013 TAX YEAR INTEREST COMPUTATION

Interest computed to 06/21/2017

Total Tax Deficiency \$21,986.00

Plus Penalties\*

Failure to File - IRC 6651	\$4,946.85
Accuracy Related Penalty - IRC 6662	\$ .00
Accuracy Related Penalty - IRC 6662A	\$ .00
Civil Fraud - IRC 6663	\$ .00
Manually Computed Penalty	\$ .00

Total Penalties Subject to Interest \$4,946.85



Tax Deficiency and Penalties Subject to Interest \$26,932.85

Type	Effective Dates	Days	Rate	Interest
Compound	04/15/2014--12/31/2014	260	3%	\$581.72
Compound	01/01/2015--12/31/2015	365	3%	\$837.91
Compound	01/01/2016--03/31/2016	91	3%	\$212.26
Compound	04/01/2016--12/31/2016	275	4%	\$871.49
Compound	01/01/2017--06/21/2017	172	4%	\$560.08
Total Interest				<u>\$3,063.46</u>

Interest on penalties is computed from the due date of the return (including extensions) until the date of payment. The interest shown on this report is estimated. Interest is computed from the due date of the return (including extensions) and will continue to accrue until the date paid in full. Interest on the failure to pay penalty is computed from the date of assessment and is therefore not considered in this report.



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Form <b>886-A</b> (Rev. January 1994)	<b>EXPLANATION OF ITEMS</b>		Schedule number or exhibit
Name of taxpayer 	Tax Identification Number 	Year/Period ended 2013	

## Personal Exemption - Self

Per Return: 0

Per Exam: 1

Per Adjustment: -1

Since you failed to file your tax return(s) for the tax year(s) shown in this report, we have filed for you as authorized by Internal Revenue Code Section 6020(b). The income, filing status, deductions, and credits shown in this report are based on information available to us. The proposed adjustments may not reflect certain deductions, expenses, exemptions, credits and other tax benefits, such as cost basis of capital items, due to your failure to file your return and provide supporting information.

We used Information Return Documents filed by payers as reported under your Social Security Number to determine your income. If you need an itemized list of payers and amounts of the income reported to the Internal Revenue Service, you may request this information by calling the toll-free number or writing to the address shown on the accompanying letter.

## Statutory-SE AGI Adjustment

Per Return: \$0.00

Per Exam: \$5,401.00

Per Adjustment: (\$5,401.00)

Your self-employment tax has changed as a result of adjustments made to your net earnings from self-employment as shown in this report. The self-employment tax deduction has been adjusted to one-half of the recomputed amount.

## Statutory-Self Employment Tax

Per Return: \$0.00

Per Exam: \$10,801.00

Per Adjustment: \$10,801.00

We have adjusted your self-employment tax due to a change in your net earnings from self-employment.



Name Of Taxpayer: [REDACTED]  
Identification Number: [REDACTED]

Total 05/22/2017  
18.20.00

### HOW TO PAY YOUR TAXES

If you agree with our examination, pay now by sending a check or money order payable to United States Treasury and your signed agreement. The enclosed report does not reflect any balance currently due on your account.

Why it is to your advantage to pay now:

- Decreases future interest charges
- Prevents assessment of failure to pay penalty
- Reduces payment of nondeductible interest
- Eliminates further contact with us

If you agree with our examination and cannot pay now:

- 1) Can you pay the full amount within 120 days?  Yes  No
  - If yes, send in the signed agreement now and submit the balance due when you receive a bill. Checks should be made payable to United States Treasury.
  - If no, you may be eligible for a payment plan.
- 2) If you would like us to consider an installment agreement, submit your written request or check the box below and return this flyer with your signed agreement.

I would like to pay \$ \_\_\_\_\_ per month.

(We encourage you to make your payments as large as possible to limit penalty and interest charges.)

I would like my payment to be due on the \_\_\_\_\_ of the month.

(Please indicate a date between the 1st and 28th of the month.)

You will be charged a fee if your request is approved. DO NOT include the fee with this flyer. We will send you a bill for the fee when we approve your request.

Please provide a telephone number where we can contact you regarding your request.

Home: (        ) \_\_\_\_\_

Work: (        ) \_\_\_\_\_

ALSO, if you agree with our examination, PLEASE SIGN PAGE 2 OF THE REPORT (Form 4549) and return pages 1 and 2 to us.

- \* Interest and applicable penalties will continue to accrue until your balance is paid in full.
- \* All checks or money orders for payment should be made payable to United States Treasury.

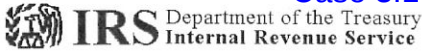


008995

# EXHIBIT

6





Cincinnati, OH 45999-0040

Letter Number: 3219(SC/CG)  
Letter Date: August 29, 2017

Taxpayer Identification Number:

9407 1901 2822 0600 1913 96

Tax Form: 1040

Tax Year Ended and Deficiency

DECEMBER 31, 2014 \$38,426.00

Contact Person:

TAX EXAMINER

Contact Telephone Number:

1 866-897-0161

(TOLL FREE NUMBER)

Hours to Call:

7:00AM-7:00PM M-F LOCAL TIME

Last Date to Petition Tax Court:

November 27, 2017

Penalties/Additions to Tax

[REDACTED]  
%ROBERT L GOLDSTEIN  
100 BUSH ST STE 501  
SAN FRANCISCO, CA 94104-3908264

Dear Taxpayer:

We have determined that there is a deficiency (increase) in your income tax as shown above. This letter is your NOTICE OF DEFICIENCY, as required by law. The enclosed statement shows how we figured the deficiency.

If you want to contest this determination in court before making any payment, you have until the Last Date to Petition Tax Court (90 days from the date of this letter or 150 days if the letter is addressed to you outside the United States) to file a petition with the United States Tax Court for a redetermination of the amount of your tax. You can get a petition form and the rules for filing a petition from the Tax Court. You should file the petition with the United States Tax Court, 400 Second Street NW, Washington D.C. 20217. Attach a copy of this letter to the petition.

The time in which you must file a petition with the court (90 days or 150 days as the case may be) is fixed by law and the Court cannot consider your case if the petition is filed late. As required by law, separate notices are sent to spouses. If this letter is addressed to both a husband and wife, and both want to petition the Tax Court, both must sign the petition or each must file a separate, signed petition.

The Tax Court has a simplified procedure for small tax cases when the amount in dispute is \$50,000 or less for any one tax year. You can also get information about this procedure, as well as a petition form you can use, by writing to the Clerk of the United States Tax Court at 400 Second Street, NW, Washington, D.C. 20217. You should write promptly if you intend to file a petition with the Tax Court.

If you decide not to file a petition with the Tax Court, please sign and return the enclosed waiver form to us. This will permit us to assess the deficiency quickly and will limit the accumulation of interest. We've enclosed an envelope you can use. If you decide not to sign and return the waiver and you do not petition the Tax Court, the law requires us to assess and bill you for the deficiency after 90 days from the date of this letter (150 days if this letter is addressed to you outside the United States).

If you have questions about this letter, you may call the Contact Person whose name and telephone number are shown in the heading of this letter. If this number is outside your local calling area, there will be a long distance charge to you. If you prefer, you can call the Internal Revenue Service (IRS) telephone number in your local directory. An IRS employee there may be able to help you, but the office at the address shown on this letter is most familiar with your case.

When you send information we requested or if you write to us about this letter, please provide a telephone number and the best time to call you if we need more information. Please attach this letter to your correspondence to help us identify your case. Keep the copy for your records.

The person whose name and telephone number are shown in the heading of this letter can access your tax information and help get you answers. You also have the right to contact the Taxpayer Advocate. You can call 1-877-777-4778 and ask for Taxpayer Advocate Assistance. Or you can contact the Taxpayer Advocate for the IRS Office that issued this Notice of Deficiency by calling 1-859-669-5316 or writing to:

CINCINNATI SERVICE CENTER  
TAXPAYER ADVOCATE  
P.O. BOX 1235, STOP 11  
CINCINNATI, OH 45201

Taxpayer Advocate assistance is not a substitute for established IRS procedures such as the formal appeals process. The Taxpayer Advocate is not able to reverse legally correct tax determinations, nor extend the time fixed by law that you have to file a petition in the United States Tax Court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling.

Thank you for your cooperation.

Sincerely yours,

Commissioner  
By



JAMES E. ROGERS JR  
Field Director, Compliance Svcs.  
Cincinnati Service Center

Enclosures:  
Copy of this letter  
Waiver  
Envelope



FORM 5564	Department of the Treasury --- Internal Revenue Service	Symbols
(Rev. June 1992)	NOTICE OF DEFICIENCY - WAIVER	Cincinnati STOP 8201

Name and Address of Taxpayer(s) August 29, 2017

~~NOREEN E BULLOTT~~  
 %ROBERT L GOLDSTEIN  
 100 BUSH ST STE 501  
 SAN FRANCISCO, CA 94104-3908264

Kind of Tax	<input checked="" type="checkbox"/> Copy to Authorized Representative
INDIVIDUAL INCOME	ROBERT L GOLDSTEIN FRAMTA SAECHAO
Tax Year Ended	DEFICIENCY
DECEMBER 31, 2014	Increase in Tax \$38,426.00 <span style="float: right;">Penalties</span>

I consent to the immediate assessment and collection of the deficiencies (increase in tax and penalties) shown above, plus any interest. Also, I waive the requirement under section 6532(a)(1) of the Internal Revenue Code that a notice of claim disallowance be sent to me by certified mail for any overpayment shown on the attached report. I understand that the filing of this waiver is irrevocable and it will begin the 2-year period for filing suit for refund of the claims disallowed as if the notice of disallowance had been sent by certified or registered mail.

Signature		Date
		Date
	By	Title

Note: If you consent to the assessment of the deficiencies shown in this waiver, please sign and return this form to limit the interest charge and expedite our bill to you. Please do not sign and return any prior notices you may have received. Your consent signature is required on this waiver, even if fully paid.

Your consent will not prevent you from filing a claim for refund (after you have paid the tax) if you later believe you are so entitled; nor prevent us from later determining, if necessary, that you owe additional tax; nor extend the time provided by law for such action.

If you later file a claim and the Service disallows it, you may file suit for refund in a District Court or in the United States Claims Court, but you may not file a petition with the United States Tax Court.

Who Must Sign: If you filed jointly, both you and your spouse must sign. Your attorney or agent may sign this waiver provided that action is specifically authorized by a power of attorney which, if not previously filed, must accompany this form.

If this waiver is signed by a person acting in a fiduciary capacity (for example, an executor, administrator, or a trustee), Form 56, Notice Concerning Fiduciary Relationship, should, unless previously filed, accompany this form.

If you agree, please sign and return this form; keep one copy for your records.



Cincinnati, OH 45999-0040

Letter Number: 3219(SC/CG)  
Letter Date: August 29, 2017

Taxpayer Identification Number:

9407 1901 2822 0600 1913 96

Tax Form: 1040

Tax Year Ended and Deficiency

DECEMBER 31, 2014 \$38,426.00

Contact Person:

TAX EXAMINER

Contact Telephone Number:

1 866-897-0161

(TOLL FREE NUMBER)

Hours to Call:

7:00AM-7:00PM M-F LOCAL TIME

Last Date to Petition Tax Court:

November 27, 2017

Penalties/Additions to Tax

████████████████████  
 %ROBERT L GOLDSTEIN  
 100 BUSH ST STE 501  
 SAN FRANCISCO, CA 94104-3908264

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The time in which you must file a petition with the court (90 days or 150 days as the case may be) is fixed by law and the Court cannot consider your case if the petition is filed late. As required by law, separate notices are sent to spouses. If this letter is addressed to both a husband and wife, and both want to petition the Tax Court, both must sign the petition or each must file a separate, signed petition.

The Tax Court has a simplified procedure for small tax cases when the amount in dispute is \$50,000 or less for any one tax year. You can also get information about this procedure, as well as a petition form you can use, by writing to the Clerk of the United States Tax Court at 400 Second Street, NW, Washington, D.C. 20217. You should write promptly if you intend to file a petition with the Tax Court.

If you decide not to file a petition with the Tax Court, please sign and return the enclosed waiver form to us. This will permit us to assess the deficiency quickly and will limit the accumulation of interest. We've enclosed an envelope you can use. If you decide not to sign and return the waiver and you do not petition the Tax Court, the law requires us to assess and bill you for the deficiency after 90 days from the date of this letter (150 days if this letter is addressed to you outside the United States).



If you have questions about this letter, you may call the Contact Person whose name and telephone number are shown in the heading of this letter. If this number is outside your local calling area, there will be a long distance charge to you. If you prefer, you can call the Internal Revenue Service (IRS) telephone number in your local directory. An IRS employee there may be able to help you, but the office at the address shown on this letter is most familiar with your case.

When you send information we requested or if you write to us about this letter, please provide a telephone number and the best time to call you if we need more information. Please attach this letter to your correspondence to help us identify your case. Keep the copy for your records.

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Thank you for your cooperation.

Sincerely yours,

Commissioner  
By



JAMES E. ROGERS JR  
Field Director, Compliance Svcs.  
Cincinnati Service Center

Enclosures:  
Copy of this letter  
Waiver  
Envelope

FORM 5564 (Rev. June 1992)	Department of the Treasury --- Internal Revenue Service NOTICE OF DEFICIENCY - WAIVER	Symbols Cincinnati STOP 8201
Name and Address of Taxpayer(s) [REDACTED] %ROBERT L GOLDSTEIN 100 BUSH ST STE 501 SAN FRANCISCO, CA 94104-3908264		August 29, 2017 [REDACTED]
Kind of Tax INDIVIDUAL INCOME	<input checked="" type="checkbox"/> Copy to Authorized Representative ROBERT L GOLDSTEIN FRAMTA SAECHAO	
Tax Year Ended DECEMBER 31, 2014	DEFICIENCY Increase in Tax \$38,426.00 Penalties	

I consent to the immediate assessment and collection of the deficiencies (increase in tax and penalties) shown above, plus any interest. Also, I waive the requirement under section 6532(a)(1) of the Internal Revenue Code that a notice of claim disallowance be sent to me by certified mail for any overpayment shown on the attached report. I understand that the filing of this waiver is irrevocable and it will begin the 2-year period for filing suit for refund of the claims disallowed as if the notice of disallowance had been sent by certified or registered mail.

Signature		Date
		Date
	By	Title

Note: If you consent to the assessment of the deficiencies shown in this waiver, please sign and return this form to limit the interest charge and expedite our bill to you. Please do not sign and return any prior notices you may have received. Your consent signature is required on this waiver, even if fully paid.



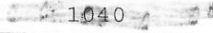

Your consent will not prevent you from filing a claim for refund (after you have paid the tax) if you later believe you are so entitled; nor prevent us from later determining, if necessary, that you owe additional tax; nor extend the time provided by law for such action.

If you later file a claim and the Service disallows it, you may file suit for refund in a District Court or in the United States Claims Court, but you may not file a petition with the United States Tax Court.

Who Must Sign: If you filed jointly, both you and your spouse must sign. Your attorney or agent may sign this waiver provided that action is specifically authorized by a power of attorney which, if not previously filed, must accompany this form.

If this waiver is signed by a person acting in a fiduciary capacity (for example, an executor, administrator, or a trustee), Form 56, Notice Concerning Fiduciary Relationship, should, unless previously filed, accompany this form.

If you agree, please sign and return this form; keep one copy for your records.

Form <b>4549</b> (Rev. May 2008)		Department of the Treasury-Internal Revenue Service <b>Income Tax Examination Changes</b>		Page <u>1</u> of <u>2</u>
Name and Address of Taxpayer 		Taxpayer Identification Number 	Return Form No.: 	
		Person with whom examination changes were discussed.	Name and Title: 	
<b>1. Adjustments to Income</b>		<b>Period End</b> 12/31/2014	<b>Period End</b>	<b>Period End</b>
a. Non-Employee Compensation		149,187.00		
b. Standard Deduction		(6,200.00)		
c. Exemptions		(3,950.00)		
d.				
e.				
f.				
g.				
h.				
i.				
j.				
k.				
l.				
m.				
n.				
o.				
p.				
<b>2. Total Adjustments</b>		139,037.00		
<b>3. Taxable Income Per Return or as Previously Adjusted</b>		0.00		
<b>4. Corrected Taxable Income</b>		139,037.00		
Tax Method		TAX RATE		
Filing Status		Single		
<b>5. Tax</b> (See attached schedule)		38,426.00		
<b>6. Additional Taxes / Alternative Minimum Tax</b>				
<b>7. Corrected Tax Liability</b>		38,426.00		
<b>8. Less</b> a.				
<b>Credits</b> b.				
c.				
d.				
<b>9. Balance</b> (Line 7 less Lines 8a through 8d)		38,426.00		
<b>10. Plus</b> a.				
Other b.				
Taxes c.				
d.				
<b>11. Total Corrected Tax Liability</b> (Line 9 plus Lines 10a through 10d)		38,426.00		
<b>12. Total Tax Shown on Return or as Previously Adjusted</b>		0.00		
<b>13. Adjustments to:</b> a.				
b.				
c.				
<b>14. Deficiency-Increase in Tax or (Overassessment-Decrease in Tax)</b> (Line 11 less Line 12 adjusted by Lines 13a through 13c)		38,426.00		
<b>15. Adjustments to Prepayment Credits - Increase (Decrease)</b>				
<b>16. Balance Due or (Overpayment)</b> - (Line 14 adjusted by Line 15) (Excluding interest and penalties)		38,426.00		

The Internal Revenue Service has agreements with state tax agencies under which information about federal tax, including increases or decreases, is exchanged with the states. If this change affects the amount of your state income tax, you should amend your state return by filing the necessary forms.

You may be subject to backup withholding if you underreport your interest, dividend, or patronage dividend income you earned and do not pay the required tax. The IRS may order backup withholding (*withholding of a percentage of your dividend and/or interest income*) if the tax remains unpaid after it has been assessed and four notices have been issued to you over a 120-day period.



Form <b>4549</b> (Rev. May 2008)	Department of the Treasury-Internal Revenue Service <b>Income Tax Examination Changes</b>	Page <u>2</u> of <u>2</u>
Name of Taxpayer <b>[REDACTED]</b>	Taxpayer Identification Number <b>[REDACTED]</b>	Return Form No.: 1040
<b>17. Penalties/ Code Sections</b>	Period End 12/31/2014	Period End <b>[REDACTED]</b>
a.		
b.		
c.		
d.		
e.		
f.		
g.		
h.		
i.		
j.		
k.		
l.		
m.		
n.		
<b>18. Total Penalties</b>		
Underpayment attributable to negligence: (1981-1987) <i>A tax addition of 50 percent of the interest due on the underpayment will accrue until it is paid or assessed.</i>		
Underpayment attributable to fraud: (1981-1987) <i>A tax addition of 50 percent of the interest due on the underpayment will accrue until it is paid or assessed.</i>		
Underpayment attributable to Tax Motivated Transactions (TMT). The interest will accrue and be assessed at 120% of the underpayment rate in accordance with IRC §6621(c)	0.00	
<b>19. Summary of Taxes, Penalties and Interest:</b>		
a. Balance due or (Overpayment) Taxes - (Line 16, Page 1)	38,426.00	
b. Penalties (Line 18) - computed to 06/19/2017		
c. Interest (IRC § 6601) - computed to 07/19/2017	3,233.58	
d. TMT Interest - computed to 07/19/2017 (on TMT underpayment)	0.00	
e. Amount due or (refund) - (sum of Lines a, b, c and d)	41,659.58	

**Other Information:**

Examiner's Signature: Mrs. Mayse	Employee ID: 1000197225	Office: CINCINNATI SERVICE CENTER	Date: 06/19/2017
-------------------------------------	----------------------------	--------------------------------------	---------------------

Consent to Assessment and Collection- I do not wish to exercise my appeal rights with the Internal Revenue Service or to contest in the United States Tax Court the findings in this report. Therefore, I give my consent to the immediate assessment and collection of any increase in tax and penalties, and accept any decrease in tax and penalties shown above, plus additional interest as provided by law. It is understood that this report is subject to acceptance by the Area Director, Area Manager, Specialty Tax Program Chief, or Director of Field Operations.

**PLEASE NOTE: If a joint return was filed, BOTH taxpayers must sign**

Signature of Taxpayer	Date:	Signature of Taxpayer	Date:
By:		Title:	Date:



Form <b>886-A</b> (Rev. January 1994)	<b>EXPLANATION OF ITEMS</b>	Schedule number or exhibit
Name of Taxpayer  ████████████████████	Tax Identification Number  ████████████████████	Year/Period ended

Taxes (Form 4549 series Line 5 or Form 5278 Line 11):

2014

Tax (regular tax before credits)	32,106.00
Excess advance premium tax credit repayment	6,320.00

Total Taxes:	38,426.00
--------------	-----------

Other Taxes (Form 4549 series Line 10 or Form 5278 Line 17):

Name of Taxpayer:	[REDACTED]	06/19/2017
Identification Number:	[REDACTED]	Total 18.20.00

## 2014 - Form 6251 - Alternative Minimum Tax Computation

1. If filing Schedule A, enter taxable income before exemptions; otherwise, enter adjusted gross income	149,187.00
2. Total adjustment and preferences (excluding any NOL deduction)	0.00
3. Net operating loss deduction	0.00
4. Alternative tax net operating loss deduction	0.00
5. Alternative minimum taxable income (combine lines 1 thru 4)	149,187.00
6. Exemption amount	44,828.00
7. Subtract line 6 from line 5 (if zero or less, enter zero)	104,359.00
8. If capital gains are reported, use the amount from line 29 of the continuation page (If FEIT worksheet for AMT is used, enter amount from line 6 of that worksheet instead) All others, multiply line 7 by 26% and subtract \$ 0 from the result	27,133.00
9. Alternative minimum tax foreign tax credit	0.00
10. Tentative minimum tax (line 8 less line 9)	27,133.00
11. Regular tax less foreign tax credit plus excess advance premium tax credit repayment (if Schedule J was used to figure tax, use the refigured amount for line 44 of Form 1040 without using Schedule J)	38,426.00
12. Alternative minimum tax	0.00

## Exemption Worksheet (line 6 above)

A. Exemption amount based on filing status	52,800.00
B. Alternative minimum taxable income	149,187.00
C. Enter amount based on filing status	117,300.00
D. Subtract line C from line B	31,887.00
E. Multiply line D by 25%	7,972.00
F. Subtract line E from line A (if zero or less, enter zero)	44,828.00

Name of Taxpayer: [REDACTED] 06/19/2017  
 Identification Number: [REDACTED] Total 18.20.00

2014 - Form 6251 - Continuation, Tax Computation Using Maximum Capital Gain Rates

1. Amount from Form 6251 report, line 7 (If FEIT worksheet for AMT was used, enter amount from line 3 of that worksheet instead)	104,359.00
2. Amount from line 6 Qualified Dividends and Capital Gain Tax Worksheet or line 13 Schedule D Tax Worksheet (refigured for AMT)	0.00
3. Amount from Schedule D line 19 (refigured for AMT)	0.00
4. Amount from line 2 if no Schedule D worksheet; otherwise, the smaller of the sum of line 2 and line 3 or Schedule D worksheet line 10 (refigured for AMT)	0.00
5. Smaller of line 1 or line 4	0.00
6. Subtract line 5 from line 1	104,359.00
7. Multiply line 6 by 26% and subtract \$ 0 from the result	27,133.00
8. Enter amount based on filing status	36,900.00
9. Amount from line 7 Qualified Dividends and Capital Gain Tax Worksheet or amount from line 14 Schedule D Tax Worksheet, whatever applies (as figured for regular tax). If neither worksheet applies, use taxable income (but not less than zero). If Form 2555 was filed, see instructions	139,037.00
10. Subtract line 9 from line 8 (if zero or less, enter zero)	0.00
11. Smaller of line 1 or line 2	0.00
12. Smaller of line 10 or line 11; This amount is taxed at 0%.	0.00
13. Subtract line 12 from line 11	0.00
14. Enter amount based on filing status	406,750.00
15. Amount from line 10	0.00
16. Amount from line 7 Qualified Dividends and Capital Gain Tax Worksheet or amount from line 19 Schedule D Tax Worksheet, whatever applies (as figured for regular tax). If neither worksheet applies, use taxable income (but not less than zero). If Form 2555 was filed, see instructions	139,037.00
17. Add lines 15 and 16	139,037.00
18. Subtract line 17 from line 14 (if zero or less, enter zero)	267,713.00
19. Smaller of line 13 or line 18	0.00
20. Multiply line 19 by 15%	0.00
21. Add lines 12 and 19	0.00
22. Subtract line 21 from line 11	0.00
23. Multiply line 22 by 20%	0.00
24. Add lines 6, 21, and 22	0.00
25. Subtract line 24 from line 1	0.00
26. Multiply line 25 by 25%	0.00
27. Total of lines 7, 20, 23, and 26	27,133.00
28. Multiply line 1 by 26% and subtract \$ 0 from the result	27,133.00
29. Smaller of line 27 or line 28. Enter here and on line 8 of Form 6251 report	27,133.00

Name of Taxpayer: [REDACTED] 06/19/2017  
 Identification Number: [REDACTED] Total [REDACTED] 18.20.00

**2014 - Form 8962 - Premium Tax Credit**

1. Family size						1
2a. Modified adjusted gross income						149,187.00
2b. Dependents' modified adjusted gross income						0.00
3. Household income (sum of lines 2a and 2b; no less than -0-)						149,187.00
4. Federal poverty line <i>Other 48 States and DC</i>						11,490.00
5. Household income as a percentage of federal poverty line (divide line 3 by line 4)						999%
6. If amount on line 5 is less than or equal to 400%, continue to line 7; otherwise, enter 0.00 on line 7; skip columns A, B, C, D, and E of lines 11 thru 23 NOTE: If amount on line 5 is less than 100% and no exception has been met; enter 0.00 on line 7; skip columns A, B, C, D, and E of lines 11 thru 23 NOTE: If married filing separately and relief indicator is not checked; enter 0.00 on line 7; skip columns A, B, C, D, and E of lines 11 thru 23						
7. Applicable figure						0.0000
8a. Annual contribution for health care (multiply line 3 by line 7 and round to whole number)						0.00
8b. Monthly contribution for health care (divide line 8a by 12 and round to whole number)						0.00
9. Using shared policy or alternate calculation for marriage? <i>No</i>						
10. Using annual or monthly calculation? <i>Annual</i>						
Annual Calculation	A. Annual Premium Amount	B. Annual Premium SLCSP Amount	C. Annual Contribution (amount from line 8a)	D. Annual Maximum Premium Assistance (subtract C from B)	E. Annual Premium Tax Credit Allowed (smaller of A or D)	F. Annual Advance PTC
11.						6,320.00
Monthly Calculation	A. Monthly Premium Amount	B. Monthly Premium SLCSP Amount	C. Monthly Contribution (amount from line 8b or alternate calculation)	D. Monthly Maximum Premium Assistance (subtract C from B)	E. Monthly Premium Tax Credit Allowed (smaller of A or D)	F. Monthly Advance PTC
12. January						
13. February						
14. March						
15. April						
16. May						
17. June						
18. July						
19. August						
20. September						
21. October						
22. November						
23. December						
Total						

24. Total premium tax credit (amount from line 11E or sum of lines 12E thru 23E)						
25. Advance premium tax credit (amount from line 11F or sum of lines 12F thru 23F)						6,320.00
26. Net premium tax credit (if line 24 is greater than line 25, subtract line 25 from line 24; if line 25 is greater than line 24, skip this line and go to line 27; if line 25 equals line 24, or if using alternate calculation, enter 0.00)						
27. Excess advance payment						6,320.00
28. Additional tax limitation (if line 5 is >= 400%, skip this line)						
29. Advance premium tax credit repayment (smaller of line 27 or line 28) (if line 5 is >= 400%, enter amount from line 27)						6,320.00






Name of Taxpayer:	[REDACTED]		06/19/2017
Identification Number:	[REDACTED]	Total	18.20.00

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## 2014 - PERSONAL EXEMPTION WORKSHEET

1. Multiply \$3,950 by the total number of exemptions claimed	3,950.00
2. Adjusted gross income	149,187.00
3. Limitation based on filing status	254,200.00
NOTE: If line 2 is not greater than line 3, STOP; enter amount from line 1 on line 8 below	
4. Subtract line 3 from line 2	0.00
If line 4 is less than zero or more than \$122,500 (\$61,250 if married filing separately), then STOP; enter 0.00 on line 8	
5. Divide line 4 by \$2,500 (\$1,250 if married filing separately) (If result is not a whole number, increase to next whole number)	0.00
6. Multiply line 5 by 2% and enter the result as a decimal	0.00
7. Multiply line 1 by line 6	0.00
8. Deduction for exemptions (subtract line 7 from line 1; or amount from line 1 or 0.00, if applicable)	3,950.00

Name of Taxpayer:		06/19/2017
Identification Number:		Total  18.20.00

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**HOW TO PAY YOUR TAXES**

If you agree with our examination, pay now by sending a check or money order payable to United States Treasury and your signed agreement. The enclosed report does not reflect any balance currently due on your account.

Why it is to your advantage to pay now:

- Decreases future interest charges
- Prevents assessment of failure to pay penalty
- Reduces payment of nondeductible interest
- Eliminates further contact with us

If you agree with our examination and cannot pay now:

- 1) Can you pay the full amount within 120 days?  Yes  No
  - If yes, send in the signed agreement now and submit the balance due when you receive a bill. Checks should be made payable to United States Treasury.
  - If no, you may be eligible for a payment plan.
- 2) If you would like us to consider an installment agreement, submit your written request or check the box below and return this flyer with your signed agreement.

I would like to pay \$ \_\_\_\_\_ per month.

(We encourage you to make your payments as large as possible to limit penalty and interest charges.)

I would like my payment to be due on the \_\_\_\_\_ of the month.

(Please indicate a date between the 1<sup>st</sup> and 28<sup>th</sup> of the month.)

You will be charged a fee if your request is approved. DO NOT include the fee with this flyer. We will send you a bill for the fee when we approve your request.

Please provide a telephone number where we can contact you regarding your request.

Home: (    ) \_\_\_\_\_

Work: (    ) \_\_\_\_\_

ALSO, if you agree with our examination, PLEASE SIGN PAGE 2 OF THE REPORT (Form 4549) and return pages 1 and 2 to us.

- \* Interest and applicable penalties will continue to accrue until your balance is paid in full.
- \* All checks or money orders for payment should be made payable to United States Treasury.

Name Of Taxpayer: [REDACTED] 06/19/2017  
 Identification Number: [REDACTED] Total 18.20.00



2014 TAX YEAR INTEREST COMPUTATION

Interest computed to	[REDACTED]	07/19/2017
Total Tax Deficiency		\$38,426.00
Plus Penalties*		
Failure to File - IRC 6651	\$ .00	
Accuracy Related Penalty - IRC 6662	\$ .00	
Accuracy Related Penalty - IRC 6662A	\$ .00	
Civil Fraud - IRC 6663	\$ .00	
Manually Computed Penalty	\$ .00	
Total Penalties Subject to Interest		<u>\$ .00</u>
Tax Deficiency and Penalties Subject to Interest		\$38,426.00

Type	Effective Dates	Days	Rate	Interest
Compound	04/15/2015--12/31/2015	260	3%	\$829.96
Compound	01/01/2016--03/31/2016	91	3%	\$293.89
Compound	04/01/2016--12/31/2016	275	4%	\$1,206.63
Compound	01/01/2017--07/19/2017	200	4%	\$903.10

Total Interest \$3,233.58

Interest on penalties is computed from the due date of the return (including extensions) until the date of payment. The interest shown on this report is estimated. Interest is computed from the due date of the return (including extensions) and will continue to accrue until the date paid in full. Interest on the failure to pay penalty is computed from the date of assessment and is therefore not considered in this report.

Form <b>886-A</b> (Rev. January 1994)886-A	<b>EXPLANATION OF ITEMS</b>		Schedule Number or exhibit
Name of Taxpayer 	Taxpayer Identification Number 	Year/Period Ended 2014	

**Non-Employee Compensation**

Tax Period	Per Return	Per Exam	Adjustment
2014	\$0.00	\$149,187.00	\$149,187.00

We have adjusted your income to include amounts shown in box 7 on Form 1099-MISC.

**Exemptions**

Tax Period	Per Return	Per Exam	Adjustment
2014	0	1	-1

Allowing exemption for self only.

**Filing Status**

Tax Period	Per Return	Per Exam
2014	Single	Single

We refigured your tax using the single status.

**Premium Tax Credit (PTC) Yearly**

Tax Period	Per Return	Per Exam	Adjustment
2014	\$0.00	\$6,320.00	\$6,320.00

Form 8962, Premium Tax Credit (PTC), is required to reconcile the advance payments of the premium tax credit made for you. You must repay the advance payments of the premium tax credit because you didn't file the required form.

**Statutory-Standard Deduction**

Tax Period	Per Return	Per Exam	Adjustment
2014	\$0.00	\$6,200.00	(\$6,200.00)

We have adjusted your standard deduction because of changes to your filing status.



# EXHIBIT

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### Account Transcript

Request Date: 08-09-2017

Response Date: 08-09-2017

Tracking Number: [REDACTED]

FORM NUMBER: 1040A

TAX PERIOD: Dec. 31, 2004

TAXPAYER IDENTIFICATION NUMBER: [REDACTED]

[REDACTED]

<<<<POWER OF ATTORNEY/TAX INFORMATION AUTHORIZATION (POA/TIA) ON FILE>>>>

--- ANY MINUS SIGN SHOWN BELOW SIGNIFIES A CREDIT AMOUNT ---

ACCOUNT BALANCE:	17,696.50	
ACCRUED INTEREST:	11,542.63	AS OF: Aug. 21, 2017
ACCRUED PENALTY:	2,773.98	AS OF: Aug. 21, 2017
ACCOUNT BALANCE PLUS ACCRUALS (this is not a payoff amount):	32,013.11	

\*\* INFORMATION FROM THE RETURN OR AS ADJUSTED \*\*

EXEMPTIONS:	03
FILING STATUS:	Single
ADJUSTED GROSS INCOME:	52,236.00
TAXABLE INCOME:	38,086.00
TAX PER RETURN:	0.00
SE TAXABLE INCOME TAXPAYER:	51,907.00
SE TAXABLE INCOME SPOUSE:	0.00

TOTAL SELF EMPLOYMENT TAX: 7,942.00

RETURN DUE DATE OR RETURN RECEIVED DATE (WHICHEVER IS LATER) Mar. 13, 2007

PROCESSING DATE Apr. 02, 2007

## TRANSACTIONS

CODE	EXPLANATION OF TRANSACTION	CYCLE	DATE	AMOUNT
150	Substitute tax return prepared by IRS		04-02-2007	\$0.00
n/a	19210-887-00009-7			
140	Inquiry for non-filing of tax return		04-25-2006	\$0.00
570	Additional account action pending		04-02-2007	\$0.00
494	Final notice before tax is determined by IRS		07-17-2007	\$0.00
290	Additional tax assessed 12-24-2017	20075008	12-24-2007	\$3,185.00
n/a	81254-739-32230-7			
495	Resolved tax determination		12-04-2007	\$0.00
599	Tax return secured		12-05-2007	\$0.00
166	Penalty for filing tax return after the due date 12-24-2017	20075008	12-24-2007	\$716.62
196	Interest charged for late payment	20075008	12-24-2007	\$857.87
276	Penalty for late payment of tax	20075008	12-24-2007	\$525.52
290	Additional tax assessed 00-00-0000	20083908	10-06-2008	\$0.00
n/a	19254-656-07176-8			
530	Balance due account currently not collectable		04-21-2009	\$0.00
530	Balance due account currently not collectable		04-21-2009	\$0.00

537	Account currently considered collectable		09-21-2009	\$0.00
971	Collection due process Notice of Intent to Levy -- issued		09-21-2009	\$0.00
971	Collection due process Notice of Intent to Levy -- undeliverable		09-29-2009	\$0.00
582	Lien placed on assets due to balance owed		07-01-2011	\$0.00
971	Issued notice of lien filing and right to Collection Due Process hearing		07-05-2011	\$0.00
530	Balance due account currently not collectable		04-17-2013	\$0.00
537	Account currently considered collectable		09-23-2013	\$0.00
960	Appointed representative		09-03-2014	\$0.00
470	Claim pending		01-12-2015	\$0.00
170	Penalty for not pre-paying tax 03-23-2025	20150905	03-23-2015	\$145.56
290	Additional tax assessed 03-23-2025	20150905	03-23-2015	\$10,013.00
n/a	89254-462-00239-5			
472	Resolved claim		02-27-2015	\$0.00
599	Tax return secured		01-09-2015	\$0.00
166	Penalty for filing tax return after the due date 03-23-2025	20150905	03-23-2015	\$2,252.93
971	Notice issued CP 0021		03-23-2015	\$0.00
960	Appointed representative		03-03-2016	\$0.00

This Product Contains Sensitive Taxpayer Data
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This Product Contains Sensitive Taxpayer Data

### Account Transcript

Request Date: 08-18-2017  
Response Date: 08-18-2017  
Tracking Number: [REDACTED]

FORM NUMBER: 1040A  
TAX PERIOD: Dec. 31, 2006

TAXPAYER IDENTIFICATION NUMBER: [REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]

<<<<POWER OF ATTORNEY/TAX INFORMATION AUTHORIZATION (POA/TIA) ON FILE>>>>

--- ANY MINUS SIGN SHOWN BELOW SIGNIFIES A CREDIT AMOUNT ---

ACCOUNT BALANCE: 80,813.79  
ACCRUED INTEREST: 248.35 AS OF: Sep. 04, 2017  
ACCRUED PENALTY: 0.00 AS OF: Sep. 04, 2017

ACCOUNT BALANCE PLUS ACCRUALS  
(this is not a payoff amount): 81,062.14

\*\* INFORMATION FROM THE RETURN OR AS ADJUSTED \*\*

EXEMPTIONS: 01  
FILING STATUS: Married Filing Separate  
ADJUSTED GROSS INCOME: 150,721.00  
TAXABLE INCOME: 143,635.00  
TAX PER RETURN: 0.00  
SE TAXABLE INCOME TAXPAYER: 94,200.00  
SE TAXABLE INCOME SPOUSE: 0.00  
TOTAL SELF EMPLOYMENT TAX: 15,931.00

RETURN DUE DATE OR RETURN RECEIVED DATE (WHICHEVER IS LATER)

Aug. 14, 2009

PROCESSING DATE

Sep. 07, 2009

## TRANSACTIONS

CODE	EXPLANATION OF TRANSACTION	CYCLE	DATE	AMOUNT
150	Substitute tax return prepared by IRS		09-07-2009	\$0.00
n/a	19210-888-00000-9			
960	Appointed representative		01-30-2007	\$0.00
460	Extension of time to file tax return ext. Date 10-15-2007		04-15-2007	\$0.00
140	Inquiry for non-filing of tax return		04-07-2008	\$0.00
971	Notice issued CP 0059		04-28-2008	\$0.00
595	Account referred for review		09-07-2009	\$0.00
570	Additional account action pending		09-07-2009	\$0.00
420	Examination of tax return		08-27-2009	\$0.00
173	Penalty for not pre-paying tax	20103508	09-13-2010	\$2,371.46
163	Penalty for filing tax return after the due date	20103508	09-13-2010	\$11,274.98
300	Additional tax assessed by examination 11-08-2021	20103508	09-13-2010	\$50,111.00
n/a	19247-632-00008-0			
421	Closed examination of tax return		09-13-2010	\$0.00
336	Interest charged for late payment	20103508	09-13-2010	\$12,122.36
276	Penalty for late payment of tax	20103508	09-13-2010	\$10,272.75
971	Notice issued CP 0022		09-13-2010	\$0.00
582	Lien placed on assets due to balance owed		05-27-2011	\$0.00
360	Fees and other expenses for collection		06-20-2011	\$30.00
971	Issued notice of lien filing and right to Collection Due Process hearing		05-31-2011	\$0.00
971	Collection due process Notice of Intent to Levy -- issued		06-01-2011	\$0.00

961	Removed appointed representative		07-07-2011	\$0.00
971	Collection due process Notice of Intent to Levy -- refused or unclaimed		06-29-2011	\$0.00
960	Appointed representative		09-27-2011	\$0.00
470	Claim pending		05-16-2012	\$0.00
480	Received offer in compromise		06-06-2012	\$0.00
481	Denied offer in compromise		10-12-2012	\$0.00
470	Claim pending		02-15-2013	\$0.00
171	Reduced or removed penalty for not pre-paying tax		09-13-2010	-\$2,371.46
766	Credit to your account		04-15-2007	-\$25.61
770	Interest credited to your account		04-15-2007	-\$4.39
290	Additional tax assessed 01-19-2024	20131105	04-01-2013	\$3,210.00
n/a	19254-472-00531-3			
472	Resolved claim		03-09-2013	\$0.00
599	Tax return secured		04-08-2012	\$0.00
166	Penalty for filing tax return after the due date 01-19-2024	20131105	04-01-2013	\$715.49
971	Notice issued CP 0021		04-01-2013	\$0.00
971	Notice issued CP 071C		08-05-2013	\$0.00
196	Interest charged for late payment	20132905	08-05-2013	\$9,565.35
276	Penalty for late payment of tax	20132905	08-05-2013	\$2,375.89
971	Notice issued CP 071C		08-04-2014	\$0.00
196	Interest charged for late payment	20142905	08-04-2014	\$3,026.17
276	Penalty for late payment of tax	20142905	08-04-2014	\$385.20
971	Notice issued CP 071C		08-10-2015	\$0.00
196	Interest charged for late payment	20152905	08-10-2015	\$3,190.87
276	Penalty for late payment of tax	20152905	08-10-2015	\$288.90

520	Bankruptcy or other legal action filed		03-03-2016	\$0.00
161	Reduced or removed penalty for filing tax return after the due date		04-01-2013	- \$11,990.47
271	Reduced or removed penalty for late payment of tax		08-01-2016	- \$13,322.74
290	Additional tax assessed	20162805	08-01-2016	\$0.00
n/a	28254-593-08792-6			
971	Partial bankruptcy abatement		06-21-2016	\$0.00
197	Reduced or removed interest charged for late payment		08-01-2016	-\$3,628.05
521	Removed bankruptcy or other legal action		06-21-2016	\$0.00
971	Tax period blocked from automated levy program		10-31-2016	\$0.00
971	Notice issued CP 071C		08-07-2017	\$0.00
196	Interest charged for late payment	20172905	08-07-2017	\$3,216.09

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# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [CA Man Sues Dept. of Treasury, IRS for No Response on Claim for Abatement](#)

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