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UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
--Western Division--

UNITED STATES OF AMERICA,)
)
Plaintiff,)
v.)
)
PEYMON MOTTAHEDEH,)
)
Defendant.)

Case No. CV-⁰⁸02740-PA
**Defendant's Answer to
Complaint to Reduce Federal
Tax Assessments to Judgment**

Defendant Peymon Mottahedeh (hereinafter, "Motahedeh") hereby answers the Complaint filed against him on April 5, 2008. Mottahedeh points out to the Court that he is still without counsel at this point, and may seek to amend his Answer if he acquires counsel and is advised to do so.

A. Answers to Plaintiff's General Allegations:

1. *This is a civil action brought by the United States to reduce outstanding federal income tax assessments against defendant PEYMON MOTTAHEDEH to judgment.*

Answer: Deny for lack of knowledge.

2. *This action is brought at the direction of the Attorney General of the United States and at the request and with the authorization of a delegate of the Secretary of the Treasury pursuant to 26 U.S.C. § 7401 for the collection of federal taxes.*

Answer: Deny for lack of knowledge.

3. *The Court has jurisdiction over this action pursuant to 26 U.S.C. § 7402(a) and 28 U.S.C. §§ 1340 and 1345.*

Answer: Deny for lack of knowledge.

4. *Defendant PEYMON MOTTAHEDEH is a taxpayer who resides at 9582 Buttemere Road, Phelan, California, 92371. Accordingly, venue for the complaint is within the Central district of California under 28 U.S.C. §§ 1391(b) and 1396.*

Answer: Admit.

5. *Although required to do so by law, defendant PEYMON MOTTAHEDEH failed to file federal income tax returns for the taxable years 1992, 1993 and 1994.*

Answer: Deny. Mottahedeh did file a tax return for 1992, but the IRS ignored it. For tax years 1993 and 1994, Motahedeh was not required to file.

6. *The Internal Revenue Service determined deficiencies in defendant PEYYMON MOTTAHEDEH'S 1992, 1993 and 1994 federal income taxes and on February 26, 1996, issued to defendant PEYMON MOTTAHEDEH a statutory notice of deficiency setting forth deficiencies for each of the years 1992, 1993 and 1994.*

Answer: Admit.

7. *Defendant PEYMON MOTTAHEDEH filed a timely petition with the United States Tax Court for a redetermination of his tax liability for the taxable years 1992, 1993 and 1994. The tax court action was entitled Mottahedeh v. Commissioner, Docket No. 10592-96.*

Answer: Admit.

8. *On or about January 5, 1998, the tax court entered its decision in Mottahedeh v. Commissioner, finding deficiencies in defendant PEYMON MOTTAHEDEH'S income taxes for the years 1992, 1993 and 1994.*

Answer: Admit.

9. *Defendant PEYMON MOTTAHEDEH appealed the tax court decision to the Ninth Circuit Court of Appeals. On November 19, 1998, the tax court*

decision was affirmed in Mottahedeh v. Commissioner, 165 F.3d 916 (9th Cir 1998) (unpublished decision).

Answer: Admit.

10. *On June 8, 1998, a delegate of the Secretary of the Treasury made assessments of delinquent federal income taxes and penalties against defendant PEYMON MOTTAHEDEH, consistent with the final decision of the tax court, in the amounts, and for the taxable periods set forth below: * **

Answer: Deny for lack of knowledge.

11. *Defendant PEYEMON MOTTAHEDEH is also liable for interest which has accrued on his unpaid taxes for the years 1992, 1993 and 1994, from the date of assessment, in accordance with law.*

Answer: Deny.

12. *Proper and timely notice and demand for payment of the assessments set forth in paragraph 10 above was given to and made on defendant PEYMON MOTTHEDEH.*

Answer: Deny for lack of knowledge.

13. *Despite timely notice and demand for payment of the assessments described in paragraph 10 above, defendant PEYMON MOTTAHEDEH has neglected, failed or refused to pay said assessments. The sum of \$47,729.27, plus accrued interest and penalties from the date of assessment, and other additions as provided by law, less any payments or other credits applied.*

Answer: Deny this allegation in its entirety.

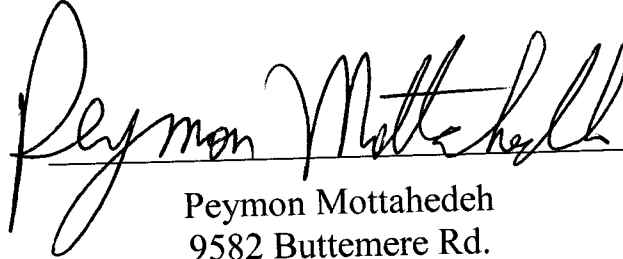
B. Plaintiff's Affirmative Defenses:

1. Mottahedeh filed a tax return for 1992 on or before April 15, 1993.
2. The IRS ignored the numbers that Mottahedeh had put on his 1992 tax return.

3. For 1993 and 1994, the IRS did not have enough third party information or information of any kind to give rise to the belief that Mottahedeh may have a tax liability for years 1993 and 1994.
4. The IRS agent who prepared the Notices of Deficiency for tax years 1992, 1993 and 1994, based on his supervisor's direction, ignored Mottahedeh's 1992 return, when he prepared the Notice of Deficiency for 1992.
5. An IRS Agent created taxable income numbers against Mottahedeh for tax years 1992, 1993 and 1994, and put them in a Notice of Deficiency on February 26, 1996.
6. These Notices of Deficiency were based on the assumption that Mottahedeh, by virtue of living in Orange County, California, must have made what the average person in Orange County made, using the Bureau of Labor Statistic's numbers. In the alternative, these Notices of Deficiency were arbitrary and baseless.
7. Plaintiff has failed to state a claim upon which relief can be granted.
8. Insofar as tax years 1993 and 1994 are concerned, there was no determination by Mottahedeh upon which to make an assessment of taxes, nor were there any returns or lists which the Secretary or his delegate could have based and determined and assessed taxes against Mottahedeh.
9. The IRS is precluded as a matter of law to make the assessments against Mottahedeh at the present time or in the future for years 1992, 1993 and 1994.

WHEREFORE, defendant PEYMON MOTAHEDEH prays that plaintiff's demands he be dismissed with prejudice at plaintiff's costs.

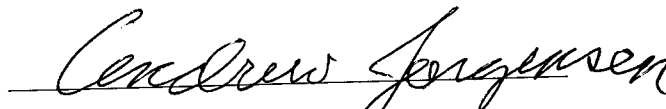
Dated this 19th day of July, 2008.



Peymon Mottahedeh
9582 Buttemere Rd.
Phelan, Ca. 92371

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a printed copy of the foregoing Defendant's Answer to Complaint to Reduce Federal Tax Assessments to Judgment, was sent to Thomas D, Coker, Assistant United States Attorney, Tax Division, Room 7211, Federal Building, 300 North Los Angeles Street, Los Angeles, California, 90012, by first class U.S. Mail, with sufficient postage affixed, this 19th day of July, 2008,



Andrew Jorgensen
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