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UNITED STATES TAX COURT

LINDA [REDACTED],	)	
	)	
Petitioner,	)	
	)	
v.	)	Docket No. [REDACTED] L
	)	
COMMISSIONER OF INTERNAL REVENUE,	)	Filed Electronically
	)	
Respondent.	)	

**OBJECTION TO PETITIONER'S MOTION TO RESTRAIN COLLECTION**

PURSUANT to the Court's Order dated [REDACTED], 2011, respondent hereby objects to petitioner's motion to restrain collection. In support thereof, respondent respectfully states:

1. On [REDACTED], 2011, respondent sent to petitioner a Notice of Determination Concerning Collection Action(s) Under Section 6320 and/or 6330.
2. Pursuant to I.R.C. § 6330(d)(1), petitioner had 30 days from the date of the notice of determination to file a petition with the Tax Court.
3. Although petitioner sent a letter to the Tax Court on [REDACTED], 2011, seeking assistance from the Court, she did not file a proper petition until [REDACTED], 2011. In its Order dated [REDACTED], 2011, the Court determined that the [REDACTED] 2011 letter was the original petition. However, respondent was neither served with a petition nor otherwise notified that a petition had been filed until [REDACTED], 2011.

4. Because respondent was unaware of the [REDACTED], 2011 petition, and the petition served on [REDACTED], 2011 therefore appeared to be untimely, there was confusion among respondent's various offices as to whether collection action could proceed with respect to the liabilities at issue in this case.

5. Counsel for respondent was informed of this confusion on [REDACTED], 2011. Counsel immediately requested that all collection activity with respect to the years at issue in this case be ceased, and a "litigation freeze" was placed on each of petitioner's accounts for the years at issue to prevent any further collection activity during the pendency of this case.

6. On [REDACTED], 2011, Revenue Officer [REDACTED] sent Letter 3174 to petitioner, reminding her of the unpaid income tax liabilities for the years at issue in this case. A copy of this letter was attached to petitioner's motion. Letter 3174 is used to give taxpayers who cannot be contacted in person or by telephone a new warning of enforcement when there has been no warning of enforcement given or enforcement action taken in the 180 days (or more) since the notice of intent to levy.

7. It is important to note that the [REDACTED], 2011 letter was **not** a levy, or even a notice of intent to levy. Petitioner's reference to I.R.C. § 6331(d) is therefore inapplicable. Petitioner has requested that the "levy" be

withdrawn; however, there is nothing to withdraw. The letter sent was simply a reminder and request for payment.

8. Moreover, the [REDACTED], 2011 letter was sent before the proper litigation freeze was placed on petitioner's accounts for the years at issue in this case. At the time the [REDACTED], 2011 letter was sent, respondent did not know that petitioner had timely petitioned the Tax Court. The situation has now been remedied, and petitioner's concerns regarding collection have been addressed.

9. Finally, respondent asks that the Court deny petitioner's request for costs. Such a request is not only premature, but also groundless. See I.R.C. § 7430; Tax Court Rule 231. Petitioner is not entitled to costs in this matter.

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WHEREFORE, respondent requests that petitioner's motion be denied as moot.

[REDACTED]  
Chief Counsel  
Internal Revenue Service

Date: [REDACTED] 2011

By: [REDACTED]  
[REDACTED]  
Attorney  
(Small Business/Self-Employed)

OF COUNSEL:

[REDACTED]  
Division Counsel  
(Small Business/Self-Employed)

[REDACTED]  
Area Counsel  
(Small Business/Self-Employed: Area 9)

[REDACTED]  
Associate Area Counsel  
(Small Business/Self-Employed)