

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

PLAINTIFF)
)
MARILYN WALLACE) CASE NO: **07 1837**
22 Longhorn Dr.)
Buffalo, Wyoming 82834)
(307) 684-5769)
)
) COMPLAINT FOR DAMAGES FOR ILLEGAL
)
VS) TAX COLLETION UNDER §7433
)
)
DEFENDANTS)
) (Jury Trial Requested)
UNITED STATES OF AMERICA)
)
The U.S. Attorney General)
950 Pennsylvania Ave., NW)
Washington, DC 20530)
)
The U.S. Attorney for the District of Columbia
501 Third Street, NW)
Washington, DC 20001)
)
Internal Revenue Service)
1111 Constitution Ave., NW)
Washington, DC 20224)
)

COMPLAINT

Plaintiff Marilyn Wallace complains of Defendant United States of America and seeks damages for Illegal Tax Collections under IRC §7433.

The IRS has admitted that the levy was illegal in issuing to Plaintiff two separate checks amounting to approximately \$11,000 (attached hereto as Exhibit A and incorporated by reference herein).

I INTRODUCTION

1. This complaint is being filed under FRCP 4.
2. This is an action brought under 26 USC §7433 for damages of \$100,000 plus fees and cost for an illegal Internal Revenue Service levy on plaintiff's pension, return of monies illegally taken plus interest.
3. Plaintiff requests trial by jury, pursuant to FRCP 38.
4. This Court has jurisdiction pursuant to 28 USC Section 1331 as this action involves federal statutes and a defendant federal agency, plus IRC §7433, FRCP 65, 28 USC §§ 451, 1331, 1357, 1631, and 1391(c). The United States is a citizen of this district.
5. Marilyn Wallace is a citizen and resident of the state of Wyoming.
6. Marilyn Wallace is sole supporter of herself and main financial supporter of her husband. The illegal levy consisted of 55% of her pension and caused immense financial hardship.

II FACTS

7. On September 25, 2001 the IRS levied Plaintiff's Michigan State Teacher's Pension in the amount of \$945.54 per month. This continued until June 2006. A total of \$53,895.78 was illegally removed from her pension.
8. Plaintiff had a tax debt of approximately \$10,000 which was listed at that time as approximately \$30,000. Approximately \$43,000 was illegally taken but the IRS only admits that \$20,000 was excessive. In any event, any amount of more than \$1.00 would be an excessive levy. Much of this was removed from her pension well after the correct amount had already been levied.

9. Monies taken out of her pension (after the levy was satisfied) would be classified as excessive, illegal and unwarranted. This happens frequently and Congress has repeatedly ordered the IRS to stop it. According to the Governmental Accountability Office (GAO), three out of four IRS liens and levies are incorrect, unauthorized or illegal.
10. Plaintiff made several phone calls and wrote several letters to numerous collection officers informing them clearly and distinctly that the amount they claimed she owed had already been removed from her pension check. Even if she owed the amount the IRS claimed, that amount had long been satisfied, ended, completed, finished over with and levied upon before the levy was finally stopped.
11. Mrs. Wallace met with IRS Agent Thomas Bentley on May 25, 2006 in Billings, MT. Thereupon he immediately ended the levy. This also was the IRS admission that the levy was in excess of \$1.00 or more.
12. On March 16, 2007 the IRS sent her two checks totaling \$10,954.18 (Exhibit A). This is clearly an unmistakable acknowledgment by the IRS that the levy was excessive or unauthorized in that amount. Plaintiff's figures show the excessive amount was well over \$10,954.18.
13. The IRS also levied her social security retirement benefit in the amount of \$3,449.10. Further, they levied her husband's social security check for the joint tax returns for \$3,074.09 for a grand total of all the three pensions of \$60,418.97.

III EXHAUST ADMINISTRATIVE REMEDIES

14. Plaintiff has exhausted her administrative remedies:

- A. On the July 5, 2006 Plaintiff filed her ADMINISTRATIVE CLAIM FOR UNAUTHORIZED COLLECTION ACTIONS UNDER IRS 7433 & 26 CFR 301.7433-1, which is attached hereto as Exhibit B and incorporated by reference herein.
- B. On the August 28, 2006 Plaintiff filed her ADMINISTRATIVE CLAIM FOR UNAUTHORIZED COLLECTION ACTIONS UNDER IRS 7433 & 26 CFR 301.7433-1, which is attached hereto as Exhibit C and incorporated by reference herein.
- C. The Tax Service has not denied either of these and more than six months has expired since she filed.

IV DAMAGES

15. Plaintiff and her husband were denied the necessities of life due to the levies on their three pensions. Due to the excessive levy and the recalcitrance of the IRS, Plaintiff suffered mental anguish, anxiety, and emotional distress.

Plaintiff and her husband are elderly, unable to work and live in an isolated area far from relatives and friends. To stop the robbery of her pensions, Plaintiff had to hire expensive tax professionals to assist her in writing letters and to advise her.

16. The damages include approximately \$60,000 for excessive levies on their pensions plus interest, actual damages of \$100,000, attorney's fees and costs, etc.

17. Summary of Damages:

Plaintiff supposedly owes the IRS about \$10,000.

According to Plaintiff, the IRS confiscated about \$60,000.

According to the IRS, they confiscated about \$50,000.

The IRS paid back about \$11,000.

Plaintiff seeks about \$39,000 or \$49,000 (depending on whose record is more accurate)

PLUS interest, actual damages of \$100,000, attorney's fees and costs, etc.

18. In conclusion, the Congress of the United States enacted the Unauthorized Tax Collection Act as part of the Taxpayer Bill of Rights II. The elected representatives of the people were appalled over certain incidences of meanness of the tax service and many incidences of appalling actions by tax collectors. Some collection agents made no effort to obey the laws of Congress, the agency regulations, or their own policies. The agency supervisors and the inspection division of the IRS were aware of these travesties against the people of this country and they looked the other way. Therefore to make agents obey the law, Congress passed remedial legislation.

In order to encourage citizens like plaintiff who were aggrieved, Congress made this a self-help enactment with ample provisions for attorney fees and damages, similar to other federal bounty hunter statutes.

Consequently, to affect the will of Congress, this Honorable Court should maximize the damages awarded to the tax victim.

WHEREFORE Plaintiff requests that this Honorable Court do grant the relief herein requested, along with fees, costs, and other relief the Court deems appropriate.

Date: October 11, 2007

Attorney Elias Esq.
Arlington, VA