

Part III – Administrative, Procedural, and Miscellaneous

Sections —6065, 6702

Rev. Rul. 2005-18

PURPOSE

The Service is aware that some taxpayers are attempting to reduce their federal tax liability by striking or otherwise invalidating the written declaration (the jurat) that verifies that a return, declaration, statement, or other document is made under penalties of perjury as required by section 6065. The Service also is aware that some promoters, including return preparers, are advising or recommending that taxpayers take frivolous positions, which include striking or otherwise invalidating the jurat. Some promoters market a package, kit, or other materials that claim to show taxpayers how they can avoid paying income taxes based on these and other meritless arguments.

This revenue ruling emphasizes to taxpayers and to promoters and return preparers that striking or otherwise altering the jurat in a manner that negates or casts doubt on its validity invalidates the return. Any argument that the law does not require written verification of the accuracy of the return 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, including frivolous positions based on arguments relating to an altered or amended jurat. 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 confirms whether taxpayers who take frivolous positions have filed all of their required tax returns, computes the correct amount of tax and interest due, and determines whether civil and 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.

ISSUE

Whether a document, declaration, or statement that is required to be verified under penalties of perjury, pursuant to section 6065, is valid if the jurat has been stricken or otherwise altered in a manner that negates or casts doubt on validity of the return?

FACTS

Situation 1. Individual taxpayer A filed a Form 1040A individual income tax return for the 2004 taxable year. Taxpayer A signed the form but crossed out the jurat on the return, and wrote the word "void" across it.

Situation 2. Individual taxpayer B filed a Form 1040A individual income tax return for the 2004 taxable year. Taxpayer B signed the Form 1040A without deleting or

altering the jurat, but wrote across the top of the Form 1040A that “I deny that I owe the tax shown on this return.”

LAW AND ANALYSIS

Section 6011(a) requires any person liable for taxes to file a return that includes “the information required by [the] forms or regulations” issued by the Service. See also Treas. Reg. sec. 1.6012-1(a)(6) (prescribing Form 1040 for making an income tax return). Section 6065 mandates that any return, declaration, statement, or other document required under the internal revenue laws and regulations “contain or be verified by a written declaration that it is made under the penalties of perjury.” For taxpayer convenience, paper returns all contain a pre-printed written declaration or jurat.

It is well settled that if a taxpayer strikes or obliterates the jurat on a tax return or other document, the jurat is void, as is the underlying return, because the return no longer meets the requirements of section 6011(a) and section 6065. See Lucas v. Pilliod Lumber Co., 281 U.S. 245, 248 (1930) (a return that was not properly verified under oath by the corporate officers did not meet the requirements of 6011(a) and section 6065); Borgeson v. United States, 757 F.2d 1071, 1072-73 (10th Cir. 1985) (the plain wording of section 6065 requires the jurat on any return); United States v. Moore, 627 F.2d 830, 834 (7th Cir. 1980) (the forms submitted by the taxpayer were not returns because the jurat was obliterated); Cupp v. Commissioner, 65 T.C. 68, 78-79 (1975) (documents submitted by the taxpayer that were not signed under penalty of perjury were not returns), aff'd without published opinion, 559 F.2d 1207 (3d Cir. 1977).

If the taxpayer adds language to the jurat, or adds language to the return that casts doubt on the validity of the jurat, courts look to the intent and effect of the change in order to determine the validity of the underlying return. A change that negates or casts doubt on the validity of the jurat, or the taxpayer's intent to affirm the contents of the return under penalty of perjury, will void the jurat. See Williams v. Commissioner, 114 T.C. 136, 140-41 (2000) (language added by the taxpayer above the jurat box that denied liability for the tax reported on the return still had the effect of vitiating the verification); Sloan v. Commissioner, 102 T.C. 137, 141-47 (1994) (language added within the jurat box that “[raised] serious questions about whether petitioner [was] ‘denying’ the accuracy of the information contained in the return, ‘disclaiming’ the jurat altogether, or simply protesting the tax laws,” ultimately acted to invalidate the return), aff'd, 53 F.3d 799 (7th Cir. 1995). If there is any doubt whether an addition or alteration to the jurat is intended to negate or deny the jurat, the Service is “entitled to construe alterations of the jurat against the taxpayer... .” Sloan v. Commissioner, 53 F.3d 799, 800 (7th Cir. 1995).

There is no authority under any U.S. law that supports the position that individuals may avoid their income tax obligations by striking or otherwise modifying the jurat in a manner that casts doubt on its validity. Moreover, tampering with the form of a tax return, including the jurat, substantially impedes the Service's ability to process and verify the return. Beard v. Commissioner, 82 T.C. 766, 776-777 (1984), aff'd, 793 F.2d 139 (6th Cir. 1986). Courts routinely impose monetary penalties on taxpayers who cite constitutional and other frivolous arguments as a basis for striking or modifying the jurat.

See Borgeson, 757 F.2d at 1073 (upholding imposition of frivolous return penalty under section 6702); Trowbridge v. Commissioner, T.C. Memo. 2003-165, aff'd, 378 F.3d 432 (5th Cir. 2004).

In Situation 1, taxpayer A rendered the Form 1040A void by crossing out the jurat and writing “void” across it. In Situation 2, taxpayer B rendered the Form 1040A void by adding language to the Form 1040A that casts doubt on the validity of the jurat. This action represents a failure on the part of taxpayer B to verify the accuracy and truthfulness of the Form 1040A.

CIVIL AND CRIMINAL PENALTIES

The Service will challenge the claims of individuals who attempt to 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 tax based on an argument that they can alter or amend the jurat on a return face substantial civil and criminal penalties. Potentially applicable civil penalties include: (1) a \$500 penalty imposed under section 6702 when the taxpayer files a document that purports to be a return but that contains a frivolous position or suggests a desire by the taxpayer to delay or impede the administration of Federal income tax laws; (2) 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; and (3) a penalty of up to \$25,000 under section 6673 if the taxpayer makes frivolous arguments in the United States Tax Court.

Taxpayers relying on these frivolous positions also may face criminal prosecution for: (1) attempting to evade or defeat tax under section 7201, for which the penalty is a

significant fine and imprisonment for up to 5 years; and (2) willful failure to file a return under section 7203, for which the penalty is a significant fine and imprisonment for up to a year.

Persons, including return preparers, who promote these frivolous positions and those who assist taxpayers in claiming tax benefits based on these 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 penalty under section 6700 for promoting abusive tax shelters; (2) a \$1,000 penalty under section 6701 for aiding and abetting the understatement of tax; and (3) criminal prosecution under section 7206, for which the penalty is a fine of up to \$100,000 and imprisonment for up to 3 years, for assisting or advising about the preparation of a false return or other document under the internal revenue laws.

HOLDING

The law mandates that any return, declaration, statement, or other document required under the internal revenue laws and regulations contain a valid jurat. The claim that taxpayers can reduce their federal tax liability by striking or amending the jurat on a return, declaration, statement, or other document is frivolous.

DRAFTING INFORMATION

The principal author of this revenue ruling is the Office of the Associate Chief Counsel (Procedure and Administration), Administrative Provisions and Judicial Practice Division. For further information regarding this revenue ruling, contact that office on (202) 622-7950 (not a toll-free call).