

 News Release

Media Relations Office

Washington, D.C.

Media Contact: 202.622.4000

www.irs.gov/newsroom

Public Contact: 800.829.1040

Stiff Court Penalties for Frivolous Appeals to Delay IRS Collections

IR-2004-41, Mar. 29, 2004

(Corrected 3rd paragraph figure of \$5,909 – 3/30/04)

WASHINGTON — In the past year, the U.S. Tax Court imposed nearly \$136,000 in penalties on 23 taxpayers for pursuing frivolous cases to delay tax collections.

“The courts are increasingly recognizing the need to impose penalties on taxpayers pursuing frivolous cases,” said IRS Commissioner Mark W. Everson. “During the past year, we saw bigger penalties than we did for the previous two years combined. This is an important tool to help us maintain faith in the tax system. The IRS works diligently to protect taxpayer rights, and it is wrong for some taxpayers to abuse those rights by trying to delay collection for frivolous reasons.”

The amount of penalties during the past year surpassed those assessed from 2001 until March 2003, when the Tax Court imposed \$126,000 in penalties on 38 taxpayers. The average penalty increased to \$5,909 during the past year, from an average of \$3,316 in the previous period.

The IRS Restructuring and Reform Act of 1998 set forth various taxpayer rights related to tax liens or levies, including the right to seek judicial review. The IRS usually may not enforce collection while an appeal is pending.

The Tax Court may impose sanctions of up to \$25,000 on those who misuse their right to a court review merely to stall their tax payments. Last May, the court imposed this maximum penalty for the first time, finding in the case of *Aston v. Commissioner* that the taxpayer’s groundless argument was primarily for the purpose of delay, wasting the court’s time and resources.

Tax professionals who use such arguments for their clients are also subject to penalties. In *Hillen v. Commissioner* [Docket #1441-03L (2004)], the Tax Court imposed a penalty of more than \$14,000 against attorney Paul Chappell after finding his frivolous arguments caused the Court to incur more than 50 hours of unnecessary work. The Court stated that Chappell, who had clerked for the Court and worked at the IRS, “should have known better than to make the arguments that he did.”

Appellate Courts affirmed the Tax Court’s penalties in seven cases in the last year and began to add their own penalties. The 5th Circuit Court of Appeals imposed an additional sanction of \$4,000 in *Raynor v. Commissioner* after affirming the Tax Court’s decision.

Last month, the 1st Circuit imposed a \$2,000 sanction in *Marino v. Brown* (357 F.3d 143) for intentionally challenging a collection action in District Court rather than Tax Court.

The IRS recently updated its Web site document, *The Truth about Frivolous Tax Arguments*, with a section devoted to Collection Due Process cases. It presents 16 frivolous assertions, along with a summary of the law and relevant cases involving these false claims. The Web site is www.irs.gov. There are links to the document from “The Newsroom” section’s “What’s Hot” page, the “Tax Pro News” and the “Topics for Individuals” pages. The direct URL is www.irs.gov/pub/irs-utl/friv_tax.pdf.

Section 6673 Penalties Imposed by U.S. Tax Court in Collection Due Process Cases
 [T.C.M. = Tax Court Memorandum Decision]

<u>Case</u>	<u>Citation</u>	<u>Date</u>	<u>Penalty</u>
<i>Lyman v. Commissioner</i>	T.C.M. 2003-72	3/13/03	\$ 3,000
<i>Kaye v. Commissioner</i>	T.C.M. 2003-74	3/13/03	\$ 4,000
<i>Keown v. Commissioner</i>	T.C.M. 2003-69	3/13/03	\$ 3,200
<i>Stoewer v. Commissioner</i>	T.C.M. 2003-71	3/13/03	\$ 2,000
<i>Robinson v. Commissioner</i>	T.C.M. 2003-77	3/17/03	\$ 11,000
<i>Cortes v. Commissioner</i>	T.C.M. 2003-80	3/19/03	\$ 1,000
<i>Duncan v. Commissioner</i>	T.C.M. 2003-89	3/26/03	\$ 2,500
<i>Frank v. Commissioner</i>	T.C.M. 2003-88	3/26/03	\$ 3,500
<i>Widner v. Commissioner</i>	T.C.M. 2003-114	4/21/03	\$ 600
<i>Bourbeau v. Commissioner</i>	T.C.M. 2003-117	4/22/03	\$ 5,000
<i>Hodgson v. Commissioner</i>	T.C.M. 2003-122	4/28/03	\$ 5,000
<i>Holquin v. Commissioner</i>	T.C.M. 2003-125	4/29/03	\$ 1,600
<i>Aston v. Commissioner</i>	T.C.M. 2003-128	5/2/03	\$ 25,000
<i>Kemper v. Commissioner</i>	T.C.M. 2003-195	7/8/03	\$ 8,500
<i>Brashear v. Commissioner</i>	T.C.M. 2003-196	7/9/03	\$ 1,600
<i>Horton v. Commissioner</i>	T.C.M. 2003-197	7/9/03	\$ 4,400
<i>Israel v. Commissioner</i>	T.C.M. 2003-198	7/9/03	\$ 1,500
<i>Green v. Commissioner</i>	T.C.M. 2003-264	9/10/03	\$ 5,000
<i>Bethea v. Commissioner</i>	T.C.M. 2003-278	9/24/03	\$ 2,000
<i>Pepper Pot Trust v. Commissioner</i>	T.C.M. 2003-287	10/7/03	\$ 15,000
<i>Cipolla v. Commissioner</i>	T.C.M. 2004-4	1/5/04	\$ 17,500
<i>Hathaway v. Commissioner</i>	T.C.M. 2004-15	1/23/04	\$ 10,000
<i>Heaphy v. Commissioner</i>	T.C.M. 2004-48	3/5/04	\$ 3,000

Appeals Court Actions Affirming Tax Court's Sanctions

<i>Raynor v. Commissioner</i>	2003 US App. Lexis 14173 (5 th Cir.) Imposed additional \$4,000 sanction
<i>Hauck v. Commissioner</i>	2003 US App. Lexis 8578 (6 th Cir.)
<i>Wasson V. Commissioner</i>	2003 US App. Lexis 5739 (6 th Cir.)
<i>Barasch v. Commissioner</i>	2003 US App. Lexis 5603 (9 th Cir.)
<i>Call v. Commissioner</i>	2003 US App. Lexis 5603 (9 th Cir.)
<i>Haines v. Commissioner</i>	2003 US App. Lexis 17583 (9 th Cir.)
<i>Israel v. Commissioner</i>	2004 US App. Lexis 3449 (7 th Cir.)