

IN THE UNITED STATES DISTRICT COURT
_____ DISTRICT OF _____

_____, *pro se*, and)
_____, *pro se*)
)
Plaintiffs)
)
v)
)
Department of the Treasury)
Internal Revenue Service)
)
Defendants)

Case No. _____

**Complaint for Refund
of Taxes**

Jury Trial Demanded

1. Comes now _____, Plaintiff *pro se*, and _____, Plaintiff *pro se*, having filed the instant law suit against the defendants the United States of America represented by the Department of the Treasury and the Internal Revenue Service, its agency, hereafter referred to as the “IRS”, on Plaintiffs claim for refund of amounts overpaid as taxes, as properly claimed by way of the 1040__ Tax Return that Plaintiffs filed concerning 20__. Because Defendant has failed or refused to properly process Plaintiffs' 1040__ for Tax Year 20__ Plaintiffs have filed the instant action against the Defendant.

I. Jurisdiction and Venue

2. This Court has the general jurisdiction to hear this case pursuant to 28 U.S.C. § 1491, and original jurisdiction, concurrent with the U.S. Court of Federal Claims, under 28 U.S.C. § 1346(a)(1). This is a Civil Action against the United States for a refund of amounts withheld from Plaintiffs and/or paid to the IRS against the possibility of a later-proven tax liability, which liability was later and timely disproved.

3. Venue is properly within this court pursuant to 28 U.S.C. § 1491(a)(1), and this venue is appropriate, fair, and convenient to the Defendant.

4. The underlying statutes and regulations that relate to the claim for the refunds and mandate the payment of money relevant to this case are 26 U.S.C. § 6401(b)(1) and (c) and 26 U.S.C. § 6402(a) and their corresponding Implementing Regulations found at 26 CFR 301.6401-1 and 26 CFR 301.6402-1, -2 and -3. Suit is brought under the authority of 26 U.S.C. § 7422.

5. Plaintiffs have pursued and exhausted all Administrative Remedies known to them prior to the filing of this action in Court.

II. The Parties

6. Plaintiff _____ is a married man, currently living in the state of _____, Social Security number _____.

7. Plaintiff _____ is a married woman currently living in the state of _____, Social Security number _____.

8. In referring to Defendant, Plaintiffs include the United States Department of the Treasury, which, upon information and belief, is a department, bureau and/or branch of the United States and at all times relevant acting as an agent thereof, and the Internal Revenue Service (IRS), which, upon information and belief, is a bureau and an agent of the Department of the Treasury and a collection agency in the business of collecting federal income and other taxes for defendant United States and at all times acting as an agent thereof.

III. Statement of Facts

9. Plaintiffs filed a return 1040__ for Tax Year 20__ on _____, 20__ with the IRS at its _____, ___ campus via _____ mail.

10. A genuine copy of the Return is attached hereto as Exhibit A.

11. Subsequent documentation from the IRS proves that they received the Return.

12. [or] A genuine copy of the Certified Mail Receipt is attached hereto as Exhibit B.

13. The Return shows that Plaintiffs had, in fact, no tax liability for the year 20__.
14. The Return shows an overpayment of taxes.
15. To the extent that any taxes are shown on the Return as being owed, they have been paid.
16. Plaintiffs have never received any § 6402(I) Notice of Disallowance of this claim by Defendant.
17. Plaintiffs have never received a Notice of Deficiency for the Tax Year 20__.
18. On information and belief, Defendant has not executed a § 6020(b) Return for Plaintiffs for Tax Year 20__.
19. Plaintiffs have not seen any evidence that the Return has been processed.
20. Plaintiffs have never received any refund or notice of credit from Defendant of the overpayment shown on the Return.

IV. Claims for Relief

A. Count One

21. Plaintiffs incorporate and re-allege the foregoing paragraphs as if fully set forth herein.
22. On information and belief, Defendant has failed to process the Return.
23. Defendant has not refunded Plaintiffs overpayment show on the Return.
24. To date, for Tax Year 20__, Defendant owes Plaintiffs the amount of \$_____ plus interest as allowed by law.

V. Prayer for Relief

Wherefore, Plaintiffs pray for judgment against the Defendant as follows: a. That this court find for the Plaintiffs in the amount of their refund claim of \$_____ plus interest as

allowed by law; b. For such other and further relief as may be permitted by law and as this Court may deem just and proper.

VI. Jury Trial Demanded

Unless prohibited by law, Plaintiffs demand a trial by jury.

Respectfully submitted this _____ day of _____, 20__.

_____, Plaintiff *pro se* _____

_____, Plaintiff *pro se* _____

Verification I, _____, am a Plaintiff in the above titled action. I have written and prepared the foregoing Complaint, and know the contents thereof. The same is true of my own knowledge in substance and fact, except as to those matters which are herein alleged on information and belief, and as to those matters, I believe them to be true. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that this declaration was executed at _____, _____.

DATED _____, 20__

_____, Plaintiff *pro se*

[NOTE: Prior FOIA for documents relating to the creation of a 6020(b) return, and the securing of IRS transcripts for the year(s)/filing(s) in question is necessary. It is not to be presumed that the model above, or any part of it, is suited to any particular use or application and any use of this material is at the sole discretion and election of the user]