

**UNITED STATE TAX COURT  
WASHINGTON, D.C. 20217**

JULIE K. PATRIOT	)
Petitioner,	) Docket No. 1067X-XX
	)
V.	) Opposition to Motion for Leave
	) to File Amendment to Answer
COMMISSIONER OF INTERNAL REVENUE )	
Respondent.	)

Petitioner hereby files her Opposition to Motion for Leave to File Amendment to Answer of Respondent dated Sept 7, 2007, based on the following grounds:

1. At the last minute, just weeks before trial, the Commissioner filed his new answer which tripled the taxes due from Petitioner. This amended answer increases the deficiency from \$49,000 to \$114,000. This is a huge increase

This is a major change in the Commissioner's position. For the first time, Petitioner learns that the IRS is using flow-through ordinary income from an "S" corporation. Petitioner is unable to respond or to protect her interest prior to trial due to lack of time and therefore taxpayer must have a continuance.

2. Petitioner opposes the motion because it does not give her enough time to prepare for trial and because the motion brings in too much new material. At this time taxpayer has not had an opportunity to discuss this huge increase with her CPA but believes the new Answer is incorrect because of mistakes made by her former accountant.
3. The petition in this case was filed on June 2006. The tax return sought to be included was filed two years earlier. The Statutory NOD was filed April 2006. Respondent has had plenty of time to notify taxpayer of their increased position. Since the CIR was so tardy in notifying innocent taxpayer of such a major change, the change should be disallowed.
4. The Amended Answer is improper procedure to increase the deficiency. The Commissioner must change the Notice of Deficiency. This amended answer is insufficient to change the deficiency and therefore the answer is invalid until the IRS changes the SNOD.
5. The IRS has had plenty of time to correct the alleged problem, but waited until just before the trial to spring this information on Petitioner. Petitioner is simply unable to be ready for trial.
6. The taxes sought in this case were plenty enough and taxpayer does not owe any additional taxes. Petitioner can disprove this increased liability if given additional time. Upon conferring with her accountant, she will file the papers to disprove the government's contention. However she does not expect to have this accomplished prior to the trial.

Besides, this increased deficiency should be listed on an Amended SNOD, not an amendment to pleadings in tax court. The time to increase the deficiency has expired and this whole matter is procedurally defective. District Counsel should have filed an affirmative defense or some type of counterclaim rather than an Amendment to Answer.

7. The Commissioner has a duty to issue correct NOD's. The vast resources of the tax service are more than sufficient to prepare and post correct NOD's. Taxpayers should not be required to guess at every SNOD and have a right to presume NOD's correct so they can go on with their lives. Increase in SNOD creates havoc for business people in America and should not be allowed except under extraordinary circumstances.

The opposition has not listed any extraordinary circumstance to increase the liability to justify tripling the taxes due. Commissioner has a duty to issue a correct NOD and taxpayer should be able to rely on the original NOD issued.

8. Petitioner reported her financial information correctly to the IRS and if she did not, it was not because of negligence or intentional disregard. Any failure to report would be due to the complexity of the Internal Revenue Code, not the negligence of the taxpayer.
9. In Conclusion, the Amended Answer should be disregarded by this court and District Counsel should be instructed that he must use the SNOD as issued or have it corrected before he brings up this matter in tax court.

**CERTIFICATE OF SERVICE: I do hereby certify that on this date a copy of this pleading was properly sent to opposing counsel.**

October 5, 2007

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