

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

DAVID T. BOSSET,

Plaintiff,

v.

Case No. 8:05-cv-1015-T-24MSS

INTERNAL REVENUE SERVICE,

Defendant.


ORDER

This cause comes before the Court on Defendant's Motion to Dismiss (Doc. No. 11) and Defendant's Motion to Stay Proceedings Pending Ruling on Motion to Dismiss. (Doc. No. 23).

On November 17, 2005, Plaintiff filed an amended complaint. (Doc. No. 27). Federal Rule of Civil Procedure 15(a) allows a party to amend its pleadings once as a matter of course at any time before a responsive pleading is served. Defendant's motion to dismiss is not a responsive pleading for the purposes of Federal Rule of Civil Procedure 15(a). See Chilivis v. Securities and Exchange Commission, 673 F.2d 1205, 1209 (11th Cir. 1982)("[n]either a motion to dismiss nor a motion for summary judgment constitutes responsive pleadings for purposes of the federal rules.")

Accordingly, it is **ORDERED AND ADJUDGED** that Defendant's Motion to Dismiss (Doc. No. 11) and Defendant's Motion to Stay Proceedings Pending Ruling on Motion to Dismiss (Doc. No. 23) are **DENIED AS MOOT**.

DONE AND ORDERED at Tampa, Florida, this 17th day of November, 2005.


SUSAN C. BUCKLEW
United States District Judge

Copies to:
David T. Bosset, pro se
Counsel of Record