

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 Plaintiff's Expedited Motion for Injunction. (Doc. No. 19). Defendant opposes this motion. (Doc. No. 25).

Plaintiff moves this Court to grant temporary injunctive relief and "expunge the public record of the Notices of Federal Tax Liens, order refunded to Bosset et al., all monies and assets taken by means of any Levy or Lien action, from any named Plaintiff." (Doc. No. 19 at 51). The Notice of Federal Tax Liens Plaintiff refers to are the liens assessed against him by the United States on all property and rights to property belonging to Plaintiff due to Plaintiff's failure to pay taxes. (Doc. No. 19, Exhibits 1-9).

Defendant argues that this Court lacks jurisdiction to enjoin the collection of taxes. (Doc. No. 25 at 2). Section 7421(a) of the Internal Revenue Code, known as the Anti-Injunction Act, provides that:

Except as provided in sections 6015(e), 6212(a), and (c), 6213(a), 6225(b), 6246(b), 6330(e)(1), 6331(i), 6672(c), 6694(c), 7426(a) and (b)(1), 7429(b) and 7436,¹ no suit for the purpose of restraining the assessment or collection of any tax shall be maintained in any court by any person, whether or not such person is the person against whom such tax

¹ Plaintiff has not asserted that any of these express statutory exceptions apply.

was assessed.

26 U.S.C. § 7421(a). The purpose of the Anti-Injunction Act is to bar any suit “in any court for the purpose of restraining the assessment or collection” of taxes. 26 U.S.C. § 7421(b); see Enochs v. Williams Packing & Navigation Company, 370 U.S. 1,5 (1962)(“The object of § 7421(a) is to withdraw jurisdiction from the state and federal courts to entertain suits seeking injunctions prohibiting the collection of federal taxes.”) If this Court granted Plaintiff’s motion for injunctive relief and expunged all public records of the Notice of Federal Tax Liens, it would certainly restrain the collection of a tax.


In Williams Packing, the Supreme Court created a judicial exception to section 7421(a). Id. at 7. Therefore, “federal courts may enjoin the collection of taxes if it can be shown that (1) under no circumstances could the government ultimately prevail on its tax claim and (2) equity jurisdiction otherwise exists; either ground being conclusive.” Mathes v. United States of Americica, 901 F.2d 1031, 1033 (11th Cir. 1990). The Eleventh Circuit stated that “except in very rare and compelling circumstances, federal courts will not entertain actions to enjoin the collection of taxes.” Id.

Plaintiff has failed to demonstrate that this is one of those very rare and compelling circumstances. First, Plaintiff has failed to demonstrate that under no circumstances could the government prevail on its tax claim. Second, equitable jurisdiction does not exist, because Plaintiff has other adequate remedies at law. Pursuant to 26 U.S.C. § 6320, Plaintiff has the right to request a hearing by the Internal Revenue Service Office of Appeals. Plaintiff has not requested such a hearing. Pursuant to 26 U.S.C. § 7422(a), Plaintiff has the right to file a claim for refund with the Secretary of the Internal Revenue Service. Plaintiff has not filed such a

claim. Therefore, the Court finds that it does not have jurisdiction to issue injunctive relief.

Accordingly, it is **ORDERED AND ADJUDGED** that Plaintiff's Expedited Motion for Injunction (Doc. No. 19) is **DENIED**.

DONE AND ORDERED at Tampa, Florida, this 18th day of November, 2005.


SUSAN C. BUCKLEW
United States District Judge

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