United States Tax Court

T.C. Memo. 2022-118

ERIC P. MATTSON,
Petitioner

v.

COMMISSIONER OF INTERNAL REVENUE,
Respondent

Docket No. 16982-18P. Filed December 6, 2022.

Eric P. Mattson, pro se.

Lisa P. Lafferty, *Douglas S. Polsky*, and *John S. Hitt*, for respondent.

MEMORANDUM OPINION

COPELAND, *Judge*: This passport case was commenced pursuant to section 7345(e).[1] The issue before the Court is whether the Internal Revenue Service (IRS or respondent) erroneously certified petitioner, Eric Mattson, to the U.S. Department of State (State Department) as a person with a "seriously delinquent tax debt," creating the possibility of a "denial, revocation, or limitation" of Mr. Mattson's passport. *See* I.R.C. § 7345(a). Respondent has moved for summary judgment under Rule 121, contending that summary judgment should be granted in his favor because there are no genuine issues of material fact, and Mr. Mattson was not erroneously certified to the State Department.

[1] Unless otherwise indicated, all statutory references are to the Internal Revenue Code, Title 26 U.S.C. (I.R.C.), in effect at all relevant times, all regulation references are to the Code of Federal Regulations, Title 26 (Treas. Reg.), in effect at all relevant times, and all Rule references are to the Tax Court Rules of Practice and Procedure.

Served 12/06/22

[*2] In response, Mr. Mattson filed his own Cross-Motion for Summary Judgment. His contentions focus on the collectability and validity of his tax debt and allege that his tax debt falls below the $51,000 inflation-adjusted threshold in section 7345(b)(1)(B), such that the IRS was erroneous in certifying him to the State Department.

After considering the parties' Motions and the Exhibits attached thereto, we determine that this case is ripe for summary adjudication.

Background

The following background is derived from the pleadings, the parties' Motion papers, including the administrative record as supplemented by the parties, and the supporting Exhibits attached thereto.[2] We note that the background is stated solely for purposes of ruling on the pending Motions for Summary Judgment and not as findings of fact. Mr. Mattson was a resident of Nevada when he petitioned this Court.

I. *Mr. Mattson's Federal Income Tax Liabilities*

Mr. Mattson did not file income tax returns for tax years 2001, 2002, and 2005 through 2008 (years in issue). The IRS, pursuant to section 6020(b), prepared substitutes for returns for the years in issue using third-party information return documents. In six separate notices of deficiency[3] the IRS determined the following deficiencies and additions to tax:

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[2] The supporting Exhibits include (1) notices of deficiency for tax years 2001, 2002, and 2005 through 2008; (2) U.S. Postal Service Form 3877, Firm Mailing Book For Accountable Mail, which shows that the notices of deficiency for tax years 2005 through 2008 were mailed via certified mail to Mr. Mattson's last known address; (3) a notice of federal tax lien for tax years 2001 and 2002; (4) a notice of determination sustaining lien and levy collection actions for tax years 2001 and 2002; and (5) Certificates of Assessments, Payments, and Other Specified Matters for tax years 2001, 2002, and 2005 through 2008, and for a Court-ordered section 6673(a)(1) penalty.

[3] The IRS sent Mr. Mattson two separate notices of deficiency for tax years 2001 and 2002 on October 1, 2007. It sent him four separate notices of deficiency for tax years 2005 through 2008 on February 14, 2011. All six notices of deficiency were mailed via certified mail.

[*3] *Year*	*Deficiency*	*Additions to Tax*		
		I.R.C. § 6651(a)(1)	*I.R.C. § 6651(a)(2)*	*I.R.C. § 6654*
2001	$7,384	$852.30	$947.00	$135.42
2002	8,474	908.78	1,009.75	118.51
2005	4,134	562.95	625.50	—
2006	12,145	1,207.35	1,180.52	218.30
2007	21,796	1,188.23	844.96	156.84
2008	11,142	802.80	356.80	—

Mr. Mattson did not contest any of the six notices of deficiency. Accordingly, the IRS assessed the foregoing deficiencies, additions to tax, and applicable interest on March 24, 2008 (for tax years 2001 and 2002), and June 27, 2011 (for tax years 2005 through 2008). The IRS also assessed a section 6673 penalty (which will be discussed in more detail below) on September 5, 2011.

II. *Collection Due Process Hearings and Subsequent Court Proceedings*

A. *Tax Years 2001 and 2002*

As part of its efforts to collect Mr. Mattson's unpaid 2001 and 2002 tax liabilities, the IRS took two collection actions: (1) on September 18, 2008, it sent Mr. Mattson a notice of intent to levy; and (2) on or about September 25, 2008, it sent him a Letter 3172, Notice of Federal Tax Lien Filing and Your Right to a Hearing Under IRC 6320.

Mr. Mattson timely requested a collection due process (CDP) hearing for the lien and levy notices for both tax years on October 17, 2008. A settlement officer (SO) with the IRS Office of Appeals[4] conducted a CDP hearing on June 4, 2009. About a month later, on

[4] On July 1, 2019, the IRS Office of Appeals was renamed the IRS Independent Office of Appeals. *See* Taxpayer First Act, Pub. L. No. 116-25, § 1001, 133 Stat. 981, 983 (2019). We will use the name in effect at the times relevant to this case, i.e., the Office of Appeals.

[*4] July 9, 2009, the SO issued a notice of determination sustaining the lien and levy collection actions for both tax years.

On August 11, 2009, Mr. Mattson petitioned this Court for review of that notice of determination. He also challenged his underlying liabilities; but instead of offering proof of his actual tax liabilities for those years, he advanced dilatory arguments which we rejected. We sustained the notice of determination, and we imposed a $2,000 section 6673(a)(1) penalty for instituting proceedings primarily for delay and for staking a groundless position. The IRS assessed that penalty on September 5, 2011, as a tax liability for tax year 2001.

B. *Tax Years 2005 Through 2008 and Section 6673(a)(1) Penalty*

As part of its efforts to collect Mr. Mattson's unpaid tax liabilities for tax years 2005 through 2008 and the Court-ordered section 6673(a)(1) penalty for 2001, the IRS, on or about March 2, 2012, mailed Mr. Mattson a notice informing him that it had filed a notice of federal tax lien against him for those tax years. Mr. Mattson timely requested a CDP hearing related to that lien notice. The Office of Appeals issued a notice of determination sustaining the lien collection action for all four tax years and the section 6673(a)(1) penalty. Mr. Mattson did not petition this Court for review of that notice of determination.

III. *Certification Under Section 7345*

As a further part of its efforts to collect Mr. Mattson's outstanding tax liabilities for the years in issue, on July 30, 2018, the IRS mailed Mr. Mattson a Notice CP508C, Notice of certification of your seriously delinquent federal tax debt to the State Department (certification notice). The certification notice states, in pertinent part:

> On December 4, 2015, as part of the Fixing America's Surface Transportation (FAST) Act, Congress enacted Section 7345 of the Internal Revenue Code, which requires the Internal Revenue Service to notify the State Department of taxpayers certified as owing a seriously delinquent tax debt. The FAST Act generally prohibits the State Department from issuing or renewing a passport to a taxpayer with a seriously delinquent tax debt.
>
> We have certified to the State Department that your tax debt is seriously delinquent.

[*5] We show that you still owe $61,933.71. This amount includes penalty and interest computed to 30 days from the date of this notice.

Mr. Mattson then filed a Petition with this Court pursuant to section 7345(e)(1).[5] The Cross-Motions for Summary Judgment now before us followed in due course.

Discussion

I. *Summary Judgment*

The purpose of summary judgment is to expedite litigation and avoid costly, time-consuming, and unnecessary trials. *Fla. Peach Corp. v. Commissioner*, 90 T.C. 678, 681 (1988). In cases that are subject to a de novo scope of review, we may grant summary judgment when there is no genuine dispute as to any material fact and a decision may be rendered as a matter of law. Rule 121(b); *Sundstrand Corp. v. Commissioner*, 98 T.C. 518, 520 (1992), *aff'd*, 17 F.3d 965 (7th Cir. 1994). In cases that are decided on the administrative record, we ordinarily decide the issues raised by the parties by reviewing the administrative record using the procedure discussed in *Van Bemmelen v. Commissioner*, 155 T.C. 64, 78–79 (2020).

Further, as in *Rowen v. Commissioner*, 156 T.C. 101, 106 (2021), we need not decide in this case either the applicable scope or standard of review. As to the scope of review, there is no material dispute between the parties regarding the evidence we should consider. As to the standard of review, our decision would be the same whether we reviewed the IRS's certification de novo or for abuse of discretion.

II. *Section 7345 Overview*

Section 7345(a) provides that, if the IRS certifies that a taxpayer has a "seriously delinquent tax debt," that certification shall be transmitted "to the Secretary of State for action with respect to denial, revocation, or limitation of [the taxpayer's] passport." The IRS is

[5] By order dated March 1, 2021, the Court ordered the parties to supplement the administrative record with respect to the status of Mr. Mattson's passport. On March 26, 2021, respondent filed a First Supplement to Motion for Summary Judgment. That Supplement informed the Court that Mr. Mattson held a valid passport when the certification was made. His passport expires on July 19, 2025. Although the State Department was empowered to revoke Mr. Mattson's passport after receiving the certification, it did not.

[*6] required to contemporaneously notify the taxpayer upon making that certification. I.R.C. § 7345(d). A "seriously delinquent tax debt" is generally a federal tax liability that (1) has been assessed; (2) exceeds $50,000 (adjusted for inflation);[6] (3) is unpaid and legally enforceable; and (4) is the subject of a filed lien notice or a completed levy. I.R.C. § 7345(b)(1), (f); *Garcia v. Commissioner*, 157 T.C. 1, 7 (2021).[7] If a certification "is found to be erroneous or if the debt with respect to such certification is fully satisfied," the IRS must reverse its certification and notify the Secretary of State and the taxpayer. I.R.C. § 7345(c)(1), (d).

Section 7345(e)(1) permits a taxpayer whom the IRS has certified as having a seriously delinquent tax debt to petition this Court to determine "whether the certification was erroneous or whether the [IRS] has failed to reverse the certification." Section 7345(e)(2) restricts the relief that we may grant. If we determine that a certification is erroneous, we can grant only one remedy: an order that the IRS "notify the Secretary of State that such certification is erroneous." I.R.C. § 7345(e)(2). Section 7345 does not authorize us to grant any other form of relief. *Ruesch v. Commissioner*, 25 F.4th 67, 70 (2d Cir. 2022), *aff'g in part, vacating in part and remanding* 154 T.C. 289 (2020).

III. *Respondent's Motion for Summary Judgment*

Respondent contends that the certification was proper and that he is entitled to judgment as a matter of law. We agree. In deciding his Motion for Summary Judgment, we examine the record now before the Court and look for support that the specific requirements of section 7345(b) have been met as to Mr. Mattson's liabilities for the years in issue, including the Court-ordered section 6673(a)(1) penalty.

As we stated in the previous section, Mr. Mattson's federal tax liability will be a seriously delinquent tax debt if it: (1) has been assessed; (2) exceeds $51,000; (3) is unpaid and legally enforceable; and (4) is the subject of a filed lien notice or a completed levy. *See* I.R.C. § 7345(b)(1), (f); Rev. Proc. 2017-58, § 3.53.

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[6] The adjusted threshold amount for 2018, the year of Mr. Mattson's certification, was $51,000. Rev. Proc. 2017-58, § 3.53, 2017-45 I.R.B. 489, 499.

[7] Excluded from the definition of "seriously delinquent tax debt" are (1) debts that are being timely paid under an installment agreement or an offer-in-compromise and (2) debts for which collection is suspended because the taxpayer requested a CDP hearing under section 6330 or innocent spouse relief under section 6015. I.R.C. § 7345(b)(2). Neither exclusion is applicable here.

[*7] A. *First Requirement: Assessment*

"Assessment" is defined in section 6203 and is the process by which the amount of tax owed to the IRS is fixed by recording the liability of the taxpayer in the Office of the Secretary of the Treasury. *See San Gabriel Energy v. Commissioner*, T.C. Memo. 1994-150, 1994 WL 122102, at *6. If the IRS determines that a taxpayer has a deficiency in income tax, then it must follow the deficiency procedures before assessing that deficiency. *See* I.R.C. §§ 6211–6215.

To demonstrate that the assessments were made, respondent provided copies of the Notice[s] of Deficiency and the Certificate[s] of Assessments, Payments, and Other Specified Matters for the years in issue. These two categories of documents evince that the IRS properly followed the deficiency procedures, which procedures were as follows: (1) the IRS first determined deficiencies and issued notices of deficiency; (2) it then waited until the time period for filing a petition with this Court for redetermination of a deficiency had passed, *see* I.R.C. § 6213(a); and finally (3) it appropriately assessed the liabilities determined in those notices of deficiency.

As to the Court-ordered section 6673(a)(1) penalty, that penalty was awarded by this Court, and the IRS was not required to issue a notice of deficiency before assessing it. The IRS assessed the tax year 2001 section 6673(a)(1) penalty approximately five months after this Court's order to do so, as reflected in the Certificate of Assessments, Payments, and Other Specified Matters generated for that penalty.

We therefore find that the assessment requirement imposed by section 7345(b)(1)(A) was met as to all components of Mr. Mattson's tax debt.

B. *Second Requirement: $51,000 Threshold*

Mr. Mattson owed at least $61,934 for the years in issue at the time of the certification.[8] That amount exceeds the $51,000 threshold. We thus find that the monetary threshold requirement imposed by section 7345(b)(1)(B), as modified by section 7345(f), was met.

Section 6665(a)(2) provides that generally, "any reference in this title to 'tax' imposed by this title shall be deemed also to refer to the

[8] In general, interest on a tax debt continues to run until the debt is paid. I.R.C. § 6601(a).

[*8] additions to tax, additional amounts, and penalties provided by this chapter." "[T]his chapter" refers to chapter 68, which contains section 6673. However, even if we were to exclude Mr. Mattson's $2,000 section 6673(a)(1) penalty (plus interest), his outstanding liability would still exceed the $51,000 threshold.

C. *Third Requirement: Unpaid and Legally Enforceable*

Mr. Mattson has yet to pay his tax debts for the years in issue. In his Cross-Motion for Summary Judgment, he contends that the periods of limitations for collection of his debts for tax years 2001 and 2002 have expired, and that the Court-ordered section 6673(a)(1) penalty is invalid because the IRS failed to comply with section 6751(b)(1). As we will explain in further detail *infra* pp. 9–13, we disagree. We find that his debts for the years in issue, including the Court-ordered section 6673(a)(1) penalty, were legally enforceable as of the time of the certification.

We therefore find that the "unpaid [and] legally enforceable" requirement imposed by the flush text of section 7345(b)(1) was met.

D. *Fourth Requirement: Collection Actions Already Taken*

The record shows that when the IRS certified Mr. Mattson to the State Department, it had already issued lien and levy notices for tax years 2001 and 2002, as well as a lien notice for tax years 2005 through 2008 and for the Court-ordered section 6673(a)(1) penalty. Mr. Mattson had an opportunity to request a CDP hearing for each of the lien and levy notices he received. In fact, he did request CDP hearings for all of those notices, and he even petitioned this Court for review of the Office of Appeals' notice of determination for tax years 2001 and 2002. As for the 2005 through 2008 liabilities and the section 6673(a)(1) penalty, Mr. Mattson's right to review in this Court has lapsed.

We thus find that the collection requirement imposed by section 7345(b)(1)(C) was met. *See also Ezekwo v. Commissioner*, T.C. Memo. 2022-54, at *5 (clarifying that either a notice of lien filed pursuant to section 6323 or a levy made pursuant to section 6331 "is sufficient to render a tax debt 'seriously delinquent'").

E. *Conclusion*

Section 7345(b)(1) contains four requirements in order for a tax debt to be considered seriously delinquent. Mr. Mattson's tax debt

[*9] meets all four of those requirements. Consequently, he is a person with a seriously delinquent tax debt, and the IRS did not err in certifying him to the State Department under section 7345.

IV. *Mr. Mattson's Cross-Motion for Summary Judgment*

Mr. Mattson advances two arguments in support of a contrary conclusion. He contends that his 2001 and 2002 tax liabilities are not legally enforceable because the periods of limitations for collection of those liabilities have expired.[9] He further contends that the Court-ordered section 6673(a)(1) penalty that we imposed in January 2011 is void because the IRS did not obtain written supervisory approval under section 6751(b)(1) before assessing that penalty. He concludes that since his liabilities for tax years 2001 and 2002 are not legally enforceable, his unpaid federal tax liability is reduced to $37,147, which is below the $51,000 inflation-adjusted threshold in section 7345(b)(1)(B). Therefore, he alleges that the IRS erred in certifying him to the State Department. We address each of these arguments below.[10]

A. *Period of Limitations on Collection After Assessment*

Mr. Mattson contends that, under section 6502(a), the IRS has ten years to collect tax after assessment. The IRS assessed his liabilities for tax years 2001 and 2002 on March 24, 2008. Therefore, Mr. Mattson contends that the IRS had only until March 24, 2018, to collect his

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[9] Mr. Mattson makes this contention in a general manner without explicitly stating whether the periods of limitations expired before or after the certification. The relevant inquiry for determining whether the Commissioner's certification was erroneous is whether the liabilities were legally enforceable *on the date of the certification*. *See* I.R.C. § 7345(a) and (b). Thus, in considering this argument, we focus on whether the periods of limitations for collection of his 2001 and 2002 liabilities expired on or before the date of the certification.

[10] In his amended petition, Mr. Mattson argues that (1) the IRS never "created, printed, or mailed" him notices of deficiency for the years in issue and (2) his certification violates his right to international travel (respondent, in his Motion for Summary Judgment, categorizes this argument as a Fifth Amendment due process argument). Mr. Mattson did not support these arguments with citations of statutes, constitutional provisions, or caselaw. Respondent argues at length that section 7345 does not permit Mr. Mattson to challenge the validity of his underlying liabilities and that section 7345 does not deprive Mr. Mattson of his due process rights. Mr. Mattson did not address respondent's counterarguments in his Cross-Motion for Summary Judgment. In fact, aside from his Amended Petition, he did not advance the two abovementioned arguments in any filing with this Court. Consequently, we will not address these arguments because we deem them abandoned. *See, e.g.*, *Rowen*, 156 T.C. at 115–16.

[*10] outstanding liabilities for those tax years; and since the IRS did not do so, his outstanding liabilities for both tax years were extinguished on March 24, 2018. Alternatively, he contends that the liens the IRS filed were due to be refiled on April 23, 2018; and because the IRS has not presented evidence that the liens were refiled, his outstanding liabilities for both tax years expired at the latest on April 24, 2018. Neither argument has any merit.

1. *Expiration of the Periods of Limitations for Collection of the 2001 and 2002 Tax Liabilities*

Mr. Mattson is generally correct that, under section 6502(a)(1), the IRS has ten years to collect tax by levy or judicial proceeding. However, that ten-year period of limitations is suspended when a taxpayer requests a CDP hearing pursuant to sections 6320 and 6330. *See* I.R.C. §§ 6320(c), 6330(e)(1); *Boyd v. Commissioner*, 117 T.C. 127, 130 (2001). The suspension remains in effect throughout the CDP hearing and any subsequent appeals. I.R.C. § 6330(e)(1). It ends on the 90th day after the day the final appeal determination is made. *See id.*; Treas. Reg. § 301.6330-1(g).

The IRS assessed Mr. Mattson's 2001 and 2002 tax liabilities on March 24, 2008, and for both tax years it issued him a levy notice on September 18, 2008, and a lien notice on or about September 25, 2008. Both dates were well within the ten-year periods of limitations for collection of his liabilities for both tax years. Mr. Mattson timely requested a CDP hearing on October 17, 2008. That CDP hearing request suspended the respective periods of limitations for both tax years, and those suspensions remained in effect throughout his various appeals. *See* I.R.C. § 6330(e)(1). His final appeal was a petition to the Court of Appeals for the Ninth Circuit for review of our decision sustaining the Office of Appeals' notice of determination. *See Mattson v. Commissioner*, 508 F. App'x 653, 654 (9th Cir. 2013), *aff'g* T.C. Dkt. No. 19245-09L (Dec. 7, 2010) (bench opinion). The Ninth Circuit affirmed our decision on February 14, 2013. *Id.* at 653. The suspensions then remained in effect for 90 days thereafter. *See* I.R.C. § 6330(e)(1); Treas. Reg. § 301.6330-1(g). The periods of limitations began to run again on May 15, 2013. Consequently, section 6502 did not bar the IRS from collecting Mr. Mattson's 2001 and 2002 tax liabilities at the time of the certification (which occurred on or around July 30, 2018).

[*11] 2. *Expiration of Filed Tax Liens*

Mr. Mattson's alternative argument is that his 2001 and 2002 tax liabilities expired before the certification to the State Department because the IRS did not refile its notice of federal tax lien by the April 23, 2018, "refile deadline" stated on the notice. However, this argument is incorrect. When a taxpayer fails to pay an assessed tax liability after receiving notice and demand for payment, a lien automatically arises by operation of law and continues until the liability is satisfied or becomes unenforceable by lapse of time. I.R.C. §§ 6321 and 6322. That lien, however, is generally not valid against third parties unless the IRS records the lien, i.e., files a notice of federal tax lien. *See* I.R.C. § 6323(a); *Thompson v. Commissioner*, T.C. Memo. 2013-260, at *7–8; Treas. Reg. §§ 301.6323(a)-1(a), 301.6323(f)-1(d). But the IRS need not record the lien in order to enforce it against the taxpayer. If the underlying liability becomes unenforceable by lapse of time, the IRS is required to release the lien no later than 30 days after the day on which the lien became unenforceable. I.R.C. § 6325(a)(1).

In Mr. Mattson's case, when the IRS assessed his 2001 and 2002 tax liabilities on March 24, 2008, a lien under section 6321 arose for those liabilities. Under section 6502(a)(1), the periods of limitations on collection for those liabilities were set to expire on March 24, 2018; and under section 6325(a)(1), the IRS needed to release the liens within 30 days (i.e., by April 23, 2018, which was the release date listed on the notice of federal tax lien filed by the IRS). However, as we explained above, Mr. Mattson's CDP hearing request and subsequent appeals suspended the periods of limitations for collection of his liabilities for both tax years. Thus, on April 24, 2018, the notice of federal tax lien expired (by the deadline listed on the notice) because it was self-releasing under the terms of the notice; but, the section 6321 liens were not affected since the periods of limitations had not expired. The IRS's decision not to refile the notice of federal tax lien affects only its priority against third parties, not the liabilities themselves. *See* Treas. Reg. § 301.6323(a)-1(a).

Section 7345 does not require the IRS to refile a notice of federal tax lien in order for a tax debt to be considered seriously delinquent. *See* I.R.C. § 7345(b)(1)(C). All it requires is that the IRS file a notice of federal tax lien or issue a notice of intent to levy and wait until the taxpayer's CDP rights with respect thereto have been exhausted or have lapsed. *See id.*; H.R. Rep. No. 114-357, at 531 (2015) (Conf. Rep.) ("A seriously delinquent tax debt generally includes any outstanding debt

[*12] for Federal taxes . . . for which a notice of lien or a notice of levy has been filed."). Once the IRS has done so, it has satisfied section 7345(b)(1)(C) and need not take further collection actions such as refiling a notice of federal tax lien. As we explained *supra* pp. 8–9, the IRS met the requirements of section 7345(b)(1)(C); the fact that it did not refile its notice of federal tax lien for tax years 2001 and 2002 is inconsequential since the underlying tax liabilities were otherwise enforceable at the time of the certification, and the requisite collection actions for both tax years have already been taken. Section 7345 merely requires a lien or levy action by the IRS, not that the lien remain on file.

B. *Written Supervisory Approval for the Court-Ordered Section 6673(a)(1) Penalty*

Mr. Mattson next contends that section 6751(b)(1) requires that written supervisory approval be obtained before a penalty can be assessed.[11] He asks us to invalidate the section 6673(a)(1) penalty that we imposed for tax year 2001 because the IRS has not shown compliance with section 6751(b)(1). While his understanding of section 6751(b)(1) is generally correct, his argument that section 6751(b)(1) applies to section 6673(a)(1) is not.

In *Williams v. Commissioner*, 151 T.C. 1, 5–10 (2018), we considered whether section 6751(b)(1) applies when we impose penalties under section 6673(a)(1). We explained that sections 6751(b)(1) and 6673(a)(1) have two different purposes. *See Williams*, 151 T.C. at 8–10. Congress enacted section 6751(b)(1) to prevent IRS agents from using penalties as a bargaining chip, whereas section 6673(a)(1) was enacted to allow this Court to impose penalties for claims that "waste the time and resources of the Court." *Williams*, 151 T.C. at 8–10. We observed that the two statutes do not affect one another, and we therefore held that section 6751(b)(1) does not apply when we impose penalties under section 6673(a)(1). *Williams*, 151 T.C. at 8–10.

This Court imposed a section 6673(a)(1) penalty on Mr. Mattson in a prior proceeding in which he contested lien and levy notices under sections 6320 and 6330 for his 2001 and 2002 tax liabilities. *See Mattson*, T.C. Dkt. No. 19245-09L (Dec. 7, 2010) (bench opinion). As the

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[11] Section 6751(b)(1) provides that "[n]o penalty under this title shall be assessed unless the initial determination of such assessment is personally approved (in writing) by the immediate supervisor of the individual making such determination or such higher level official as the Secretary may designate."

[*13] foregoing discussion makes clear, our action did not necessitate that the IRS comply with section 6751(b)(1) in assessing that penalty.

V. *Conclusion*

We will grant respondent's Motion for Summary Judgment and deny Mr. Mattson's Cross-Motion for Summary Judgment.

In reaching our holding herein, we have considered the parties' arguments and, to the extent not discussed above, conclude that they are irrelevant, moot, or without merit.

To reflect the foregoing,

An appropriate order and decision will be entered.