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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

-vs.-

PETER ERIC HENDRICKSON and
DOREEN M. HENDRICKSON,

Defendants.

Case: 2:06-cv-11753
Assigned To: Edmunds, Nancy G
Referral Judge: Whalen, R. Steven
Filed: 04-12-2006 At 09:47 AM
CMP USA V. HENDRICKSON, ET AL (TAM)

COMPLAINT FOR ERRONEOUS TAX REFUNDS
AND PERMANENT INJUNCTION

Plaintiff, the United States of America, complains and alleges against the defendants, Peter Eric Hendrickson and Doreen M. Hendrickson, as follows:

Nature of Action

1. This is a civil action in which the United States seeks to recover, with interest, the erroneous refunds of federal income, social security and Medicare taxes totaling $20,380.96 that the defendants, Peter Eric Hendrickson and Doreen M. Hendrickson, received as a result of the misrepresentations that they made on their 2002 and 2003 Form 1040 tax returns and to enjoin defendants under IRC § 7402 from filing false and fraudulent tax returns and forms with the Internal Revenue Service.

Jurisdiction and Venue

2. This civil action has been authorized by the Chief Counsel of the Internal Revenue Service, a delegate of the Secretary of the Treasury, and commenced at the direction of a delegate of the Attorney General of the United States.

3. Jurisdiction is conferred on this Court by 28 U.S.C. §§ 1340 and 1345, and by IRC (26 U.S.C.) §§ 7402(a), 7405 and 7408.

4. Venue is proper pursuant to 28 U.S.C. §§ 1391 and 1396 because the defendants reside within this judicial district.

Defendants

5. Peter Eric Hendrickson (hereinafter, "Hendrickson") resides in Commerce Township, Michigan. Hendrickson does business on the Internet through his website, www.losthorizons.com.

6. Doreen M. Hendrickson is married to Peter Eric Hendrickson and resides in Commerce Township, Michigan.

Defendants' Activities

7. Hendrickson's bogus zero-income scheme fraudulently asserts that the payment of federal taxes is voluntary, and that his customers are legally entitled to refunds of all taxes withheld from their paychecks.

8. Hendrickson brags on his www.losthorizons.com website that he has filed federal income tax returns for himself that report "zero" or no taxable income for the 2002 and 2003 tax years, and that he received tax refunds or credits of more than $20,000 for both years.

9. Hendrickson's theories about the supposed narrow application of federal income-tax laws (including his arguments that wages are not income, and that only federal workers are required to pay income taxes) have been uniformly and repeatedly rejected by the federal courts. As one court recently said, the claim that wages are not income "has been rejected as many times as it has been asserted." *Abdo v. United States*, 234 F. Supp.2d 553, 563 (M.D. N.C. 2002),

affirmed, 63 Fed. Appx. 163 (4th Cir. 2003). Other courts long ago rejected Hendrickson's claim that wages and income for federal income tax and withholding purposes mean only wages and income of government employees. *See e.g.*, *United States v. Latham*, 754 F.2d 747, 750 (7th Cir. 1985) (the argument "that under 26 U.S.C. § 3401(c) the category of 'employee' does not include privately employed wage earners is a preposterous reading of the statute. It is obvious that within the context of both statutes the word "includes" is a term of enlargement not of limitation, and the reference to certain entities or categories is not intended to exclude all others."); *McKinley v. United States*, 1992 WL 330407 (S.D. Ohio, Sept. 3, 1992) ("The plaintiffs assert that only federal officers, federal employees, elected officials or corporate officers are 'employees' who are considered to be taxpayers under the Internal Revenue Code. The plaintiffs argue, in essence, that the explicit inclusion of federal officers and employees within the definition of 'employee' for the purposes of the I.R.C. operates to exclude all others from the definition. Plaintiffs' exhibit D-1 in their motion to affirm status determinations calls the Court's attention to their position on this issue by citing to T.R. 31.3401(C)-1, which explicitly includes the federal government within the definition of employer. However, the plaintiffs' actions are based on a deliberate misinterpretation of the law that has been soundly rejected by the federal courts. *E.g.*, *United States v. Latham*, 754 F.2d 747, 750 (7th Cir.1985); *Peth v. Breitzmann* [85-1 USTC ¶ 9321], 611 F. Supp. 50, 53 (E.D. Wis. 1985). In fact, the term 'employee' as used in the I.R.C. does include private wage earners. *E.g.*, *Latham* [85- 1 USTC ¶ 9180], 754 F.2d at 750.").

10. On his www.losthorizons.com website, Hendrickson has posted copies of his 2002 and 2003 federal income tax returns which falsely report "zero" or no taxable income for the

2002 and 2003 tax years. Hendrickson has also posted copies of the notices of adjustment that he has received from the IRS showing how portions of the refunds that he and his wife received for the 2002 and 2003 tax years were applied to their outstanding federal tax obligations for other tax periods.

Count I

Erroneous Refunds under IRC § 7405

11. Plaintiff incorporates by reference the allegations in paragraphs 1-10, above.

12. The United States of America seeks to recover, with interest pursuant to IRC § 7405, the erroneous refunds of 2002 and 2003 federal taxes totaling $10,152.96 and $10,228.00, respectively, that defendants were issued or received by way of credits applied to unpaid federal tax liabilities assessed against defendants for other tax periods.

13. On the 2002 and 2003 joint income tax returns described above, Hendrickson falsely and fraudulently reported receiving no wages or salaries during the taxable years ending on December 31, 2002, and December 31, 2003.

14. On their 2002 and 2003 joint income tax returns, defendants falsely and fraudulently reported receiving no taxable income during 2002 and 2003.

15. Defendants filed an IRS Form 1099-MISC with their joint 2002 and 2003 federal income tax returns that were signed under penalty of perjury by the defendant, Doreen Hendrickson, in which she falsely and fraudulently claimed that she received "zero" or no non-employee compensation in 2002 and 2003.

16. Defendants filed IRS Forms 4852 (Substitute for Form W-2, Wage and Tax Statement, or Form 1099-R, Distributions from Pensions, Annuities, Retirement or Profit-

Sharing Plans, IRAs, Insurance Contracts, Etc.) with their joint 2002 and 2003 federal income tax returns that were signed under penalty of perjury by Hendrickson in which he falsely and fraudulently claimed that he received "zero" or no wages in 2003 and 2003.

17. Contrary to his representations on his false Forms 4852, Hendrickson did in fact receive IRS Form W-2 Wage and Tax Statements for 2002 and 2003 from Personnel Management, Inc., that correctly reported his wages and the federal income, social security and Medicare taxes that were withheld from those wages as follows:

Tax Year	Wages	Income Tax	Social Security Tax	Medicare Tax
2002	$58,965	$5,642	$3,655	$ 854
2003	$60,608	$5,620	$3,757	$ 878

But Hendrickson did not attach the W-2 forms to his 2002 and 2003 Form 1040 income tax returns or otherwise submit them to the IRS. Instead, Hendrickson attached IRS Forms 4852 ("Substitute for Form W-2, Wage and Tax Statement, etc.") to his 2002 and 2003 tax returns, signed the Forms 4852 under penalty of perjury, and falsely and fraudulently stated on the Forms 4852 that his employer had paid him no (a) wages; (b) social security wages; or (3) Medicare wages during 2002 and 2003.

18. Pre-printed language on block 9 of the Form 4852 that Hendrickson signed and filed with defendants' 2002 and 2003 Form 1040 tax returns asks "Explain your efforts to obtain Form W-2, 1099-R, or W-2c, Statements of Corrected Income and Tax Amounts." In response to this request on the form, Hendrickson falsely and fraudulently stated:

> Request, but the company refuses to issue forms correctly listing payments of "wages as defined in 3401(a) and 3121(a)" for fear of IRS retaliation. The amounts listed as withheld on the W-2 it submitted are correct, however.

The quoted language is taken directly from Hendrickson's tax-fraud promotional materials. The quoted language is false because Hendrickson's employer correctly reported Hendrickson's wages on the W-2 Wage and Tax Statements that it issued to Hendrickson for the 2002 and 2003 tax years. On information and belief the quoted language is also false in stating that (a) Hendrickson had requested his employer to issue a W-2 or corrected W-2 for 2002 or 2003, (b) that Hendrickson's employer had refused to do so, and (c) that Hendrickson's employer had refused to issue him a W-2 or corrected W-2 for 2002 or 2003 "for fear of IRS retaliation."

19. On or about November 3, 2003, the IRS issued a notice of adjustment to defendants that reflected an "overpayment" of $10,152.96 in 2002 income tax and the application of $1,699.86 in "overpaid" 2002 tax to the unpaid balance of the federal income taxes and statutory additions to tax owed by defendant Doreen M. Hendrickson for the 2000 tax year. The remainder of the 2002 overpayment was applied to defendant Peter Eric Hendrickson's unpaid 2001 and 2002 federal tax liabilities.

20. On or about May 24, 2004, the IRS issued a notice of adjustment to defendants that reflected an "overpayment" of $10,228 in 2003 income tax and the application of $5,551.44 in "overpaid" 2003 tax to the unpaid balance of federal income taxes and statutory additions to tax owed by defendants for the 2000 tax year.

21. On or about September 27, 2004, the IRS erroneously issued defendants a refund in the amount of $3,172 based on their fraudulent 2003 federal income tax return.

22. Under the caption "An IRS Response To A Properly Claimed Refund of Money Improperly Withheld" on www.losthorizons.com, Hendrickson posted a copy of an IRS notice of adjustment that incorrectly shows the "overpayment" of federal income, social security and

Medicare taxes totaling $10,152.96 for the 2002 tax year, together with a copy of the Treasury check that the IRS erroneously issued to the Hendricksons as a result of their false claim. Hendrickson has also posted a copy of the notice of adjustment for the 2003 tax year which incorrectly reflects an "overpayment" of $10,228.00.

23. Because defendants falsely and fraudulently claimed that they received no taxable income on their 2002 and 2003 federal income tax returns, and claimed credit for the $10,152.96 and $10,228 in federal income, social security (FICA) and Medicare taxes withheld from defendant Peter Eric Hendrickson's wages or salary in 2002 and 2003, respectively, the IRS should not have issued the refunds, and therefore the issuance of the $10,152.96 and $10,228 tax refunds to (or credit transfers for the benefit of) defendants was erroneous.

24. The erroneous refunds may be recovered by the United States pursuant to IRC § 7405.

25. The Internal Revenue Service's issuance of the refunds was induced by fraud or misrepresentation of a material fact by defendants, who falsely and improperly reported to the IRS that they received no taxable income, wages, and non-employee compensation in 2002 and 2003 in unlawful attempts to procure the refunds.

Count II

Injunction Under IRC § 7402

26. Plaintiff incorporates by reference the allegations in paragraphs 1-25, above.

27. Section 7402(a) of the Internal Revenue Code authorizes a district court to issue orders of injunction as may be necessary or appropriate for the enforcement of the internal revenue laws. This injunction remedy is, in the words of § 7402, "in addition to and not

exclusive of any and all other remedies of the United States" to enforce federal tax laws.

28. By filing false and fraudulent tax forms and returns Peter Eric Hendrickson and Doreen M. Hendrickson have engaged in conduct that interferes substantially with the enforcement of the internal revenue laws.

29. Peter Eric Hendrickson and Doreen M. Hendrickson's actions in filing federal income tax returns and IRS forms (including, but not limited to, IRS Forms 4852) that falsely and fraudulently state under penalty of perjury that they have not received any wages, salaries, or other taxable income is specifically calculated to cause substantial interference with the enforcement of the laws of the United States pertaining to internal revenue by (1) causing the IRS to make erroneous refunds or credits of tax to defendants; (2) administratively burdening the IRS by requiring the IRS to expend considerable resources to ascertain the erroneous refunds, conduct examinations of defendants' tax returns and federal tax liabilities, and reassess and collect defendants' federal tax liabilities; and (3) administratively burdening the IRS by requiring the IRS to detect the erroneous tax refunds made to taxpayers who imitate defendants based upon their tax fraud schemes in filing false and fraudulent returns and Forms 4852.

30. Defendants' improper submission of false forms and tax returns was not accidental, inadvertent, or based on a misunderstanding of the law. They know and have reason to know that their tax positions asserted on their tax filings described herein are false. Peter Eric Hendrickson was indicted in 1991 in this Court for (1) conspiracy to place an incendiary device in the United States mail; (2) placing an injurious article in the United States mail; (3) malicious destruction of property affecting interstate commerce; (4) use of an explosive to commit a felony against the United States; and (5) two counts of willful failure to file an income tax return. In

1992, he pled guilty to the conspiracy charge and one count of failure to file an income tax return. The conspiracy charge related to a firebomb placed in a bin at the United States Post Office in Royal Oak, Michigan on April 16, 1990, the last day on which federal income tax returns could be postmarked that year. A postal worker standing near the bin noticed smoke coming from it. When the postal worker tried to extinguish whatever was causing the smoke, the bomb detonated, injuring the postal worker and a bystander. Hendrickson testified at his co-conspirators' trial that he had wrapped a tea bag around the bomb's tubing as a reference to the Boston Tea Party tax protest. See *United States v. Scarborough*, 43 F.3d 1021 (6th Cir. 1994).

31. The defendants' actions in preparing federal income tax returns and IRS forms (including, but not limited to, IRS Forms 4852) that falsely and fraudulently state under penalty of perjury that they have not received any wages, salaries, or other taxable income is without any legal basis whatsoever and is solely designed to obtain the payment of erroneous tax refunds.

32. The preparation and filing of federal income tax returns and Forms 4852 that falsely and fraudulent claim that defendants have received no wages, salaries or other taxable income impose an immediate and irreparable injury upon the United States of America by impeding, obstructing and impairing the assessment and collection of federal taxes in accordance with the internal revenue laws. If the Hendricksons are not enjoined, the United States will suffer irreparable harm because the losses caused by their misconduct will continue to increase.

33. While the United States will suffer irreparable injury if defendants are not enjoined, defendants will not be harmed by being compelled to obey the law.

34. The public interest would be advanced by enjoining defendants because an injunction, backed by the Court's contempt powers, will stop their illegal conduct and the harm

that conduct is causing to the United States Treasury and the public.

35. If defendants are not enjoined, they are likely to continue to interfere with the enforcement of the internal revenue laws.

WHEREFORE the plaintiff, the United States of America, prays for the following relief:

A. That this Court determine that the United States erroneously issued refunds to the defendants, Peter Eric Hendrickson and Doreen M. Hendrickson, in the amounts of $10,152.96 and $10,228.00 for the 2002 and 2003 tax years, respectively; and

B. That judgment be entered on behalf of the United States and against the defendants, Peter Eric Hendrickson and Doreen M. Hendrickson, in the amount of $20,380.96 (consisting of $10,152.96 for the 2002 tax year and $10,228.00 for the 2003 tax year), plus interest thereon as allowed by IRC § 6602 from the dates of the erroneous refunds to the date(s) of payment;

C. That the Court find that defendants Peter Eric Hendrickson and Doreen M. Hendrickson have engaged in conduct that interferes with the administration and enforcement of the internal revenue laws, and that injunctive relief is appropriate to prevent the recurrence of that conduct pursuant to the Court's inherent equity powers and IRC § 7402(a).

D. That this Court, pursuant to IRC § 7402(a), enter a permanent injunction requiring defendants Peter Eric Hendrickson and Doreen M. Hendrickson to file corrected federal income tax returns for 2002 and 2003 reversing the false entries described above, and enjoining the defendants from filing false or fraudulent claims, forms, or returns with the IRS in the future, including claims, forms, and returns based on the false statements about the federal tax laws described in the complaint;

E. That this Court order that the United States is permitted to engage in post-judgment discovery to ensure compliance with the permanent injunction; and

F. That this Court grant the United States such other relief, including the costs of this action, as is just and equitable.

Dated this 11th day of April, 2006.

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