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Filed
12/22/23

Michael Austin French & Dawn Michelle French,

Petitioners

v.

Commissioner of Internal Revenue

Respondent

Electronically Filed
Docket No. 20225-23
Document No. 1

Petition

SERVED 12/26/23

FORM 2

United States Tax Court

Washington, DC 20217

Michael Austin French

Dawn Michelle French

(PLEASE TYPE OR PRINT NAME OR NAMES)

Petitioner

v.

COMMISSIONER OF INTERNAL REVENUE,

Respondent

Docket No.

PETITION
(Simplified Form)

1. Please check the appropriate box(es) to show which IRS ACTION(S) you dispute:

- [x] Notice of Deficiency
- [ ] Notice of Determination Concerning Collection Action
- [ ] Notice of Final Determination for [Full/Partial] Disallowance of Interest Abatement Claim (or Failure of IRS to Make Final Determination Within 180 Days After Claim for Abatement)
- [ ] Notice of Determination of Worker Classification
- [ ] Notice of Determination Concerning Relief From Joint and Several Liability Under Section 6015 (or Failure of IRS to Make Determination Within 6 Months After Election or Request for Relief)
- [ ] Notice of Certification of Your Seriously Delinquent Federal Tax Debt to the Department of State
- [ ] Notice of Determination Under Section 7623 Concerning Whistleblower Action

NOTE: For additional information, please see "Taxpayer Information: Starting a Case" at www.ustaxcourt.gov or in the Court's information booklet.

2. If applicable, provide the date(s) the IRS issued the NOTICE(S) checked above and the city and State of the IRS office(s) issuing the NOTICE(S): NOTICE OF DEFICIENCY dated October 18, 2023 issued from Ogden, Utah

3. Provide the year(s) or period(s) for which the NOTICE(S) was/were issued: Tax year ended December 31, 2020

4. Select one of the following (unless your case is a whistleblower or a certification action):

If you want your case conducted under small tax case procedures, check here: [ ]
If you want your case conducted under regular tax case procedures, check here: [x]
(CHECK ONE BOX)

NOTE: A decision in a "small tax case" cannot be appealed to a Court of Appeals by the taxpayer or the IRS. If you do not check either box, the Court will file your case as a regular tax case.

5. Explain why you disagree with the IRS action(s) in this case (please list each point separately):

SEE ATTACHMENT TO PETITION

6. State the facts upon which you rely (please list each point separately):
SEE ATTACHMENT TO PETITION

You may use additional pages to explain why you disagree with the IRS action(s) or to state additional facts. Please do not submit tax forms, receipts, or other types of evidence with this petition.

Please check the appropriate boxes to indicate that you will include the following items with this petition:

☑ A copy of any NOTICE(S) the IRS issued to you (omit or redact personal information (e.g., Social Security Numbers))

☑ Statement of Taxpayer Identification Number (Form 4) (see PRIVACY NOTICE below)

☑ Request for Place of Trial (Form 5) ☑ The filing fee

PRIVACY NOTICE: Form 4 (Statement of Taxpayer Identification Number) will not be part of the Court's public files. All other documents filed with the Court, including this petition and any IRS Notice that you enclose with this petition, will become part of the Court's public files. To protect your privacy, omit or redact (e.g., black out or cover) from this petition, any enclosed IRS Notice, and any other document (other than Form 4) your taxpayer identification number (e.g., your Social Security number) and certain other confidential information as specified in the Tax Court's "Notice Regarding Privacy and Public Access to Case Files," available at www.ustaxcourt.gov.

[redacted] 12/22/23
SIGNATURE OF PETITIONER DATE (AREA CODE) TELEPHONE NO.

314 WEST LENNON DRIVE, BOX 139 EMORY, TEXAS 75440
MAILING ADDRESS CITY, STATE, ZIP CODE

State of legal residence (if different from the mailing address): TEXAS EMAIL ADDRESS: [redacted]

Check this box if you want to register for electronic filing and electronic service at the email address provided above. ☑
If this box is checked, then no paper service will be made to your mailing address after the Court verifies your email address.

[redacted] 12/22/23
SIGNATURE OF ADDITIONAL PETITIONER (e.g., SPOUSE) DATE (AREA CODE) TELEPHONE NO.

314 WEST LENNON DRIVE, BOX 139 EMORY, TEXAS 75440
MAILING ADDRESS CITY, STATE, ZIP CODE

State of legal residence (if different from the mailing address): TEXAS EMAIL ADDRESS: [redacted]

Check this box if you want to register for electronic filing and electronic service at the email address provided above. ☑
If this box is checked, then no paper service will be made to your mailing address after the Court verifies your email address.

SIGNATURE OF COUNSEL, IF RETAINED BY PETITIONER(S) NAME OF COUNSEL DATE

TAX COURT BAR NO. MAILING ADDRESS, CITY, STATE, ZIP CODE

EMAIL ADDRESS (AREA CODE) TELEPHONE NO.

Electronic filing is generally required for all papers filed by parties represented by counsel in open cases. See Tax Court Rule 26(b).

UNITED STATES TAX COURT

www.ustaxcourt.gov

Michael Austin French
Dawn Michelle French
Petitioner(s)

v.

COMMISSIONER OF INTERNAL REVENUE,
Respondent

Docket No.

REQUEST FOR PLACE OF TRIAL

PLACE AN "X" IN ONLY ONE BOX TO REQUEST THE PLACE OF TRIAL. IF PETITIONER(S) ELECTED TO HAVE THE CASE CONDUCTED AS A SMALL TAX CASE, REQUEST ANY CITY LISTED BELOW; OTHERWISE, REQUEST ANY CITY NOT MARKED WITH AN ASTERISK (*).

ALABAMA
- ☐ Birmingham
- ☐ Mobile

ALASKA
- ☐ Anchorage

ARIZONA
- ☐ Phoenix

ARKANSAS
- ☐ Little Rock

CALIFORNIA
- ☐ Fresno*
- ☐ Los Angeles
- ☐ San Diego
- ☐ San Francisco

COLORADO
- ☐ Denver

CONNECTICUT
- ☐ Hartford

DISTRICT OF COLUMBIA
- ☐ Washington

FLORIDA
- ☐ Jacksonville
- ☐ Miami
- ☐ Tallahassee*
- ☐ Tampa

GEORGIA
- ☐ Atlanta

HAWAII
- ☐ Honolulu

IDAHO
- ☐ Boise
- ☐ Pocatello*

ILLINOIS
- ☐ Chicago
- ☐ Peoria*

INDIANA
- ☐ Indianapolis

IOWA
- ☐ Des Moines

KANSAS
- ☐ Wichita*

KENTUCKY
- ☐ Louisville

LOUISIANA
- ☐ New Orleans
- ☐ Shreveport*

MAINE
- ☐ Portland*

MARYLAND
- ☐ Baltimore

MASSACHUSETTS
- ☐ Boston

MICHIGAN
- ☐ Detroit

MINNESOTA
- ☐ St. Paul

MISSISSIPPI
- ☐ Jackson

MISSOURI
- ☐ Kansas City
- ☐ St. Louis

MONTANA
- ☐ Billings*
- ☐ Helena

NEBRASKA
- ☐ Omaha

NEVADA
- ☐ Las Vegas
- ☐ Reno

NEW MEXICO
- ☐ Albuquerque

NEW YORK
- ☐ Albany*
- ☐ Buffalo
- ☐ New York City
- ☐ Syracuse*

NORTH CAROLINA
- ☐ Winston-Salem

NORTH DAKOTA
- ☐ Bismarck*

OHIO
- ☐ Cincinnati
- ☐ Cleveland
- ☐ Columbus

OKLAHOMA
- ☐ Oklahoma City

OREGON
- ☐ Portland

PENNSYLVANIA
- ☐ Philadelphia
- ☐ Pittsburgh

SOUTH CAROLINA
- ☐ Columbia

SOUTH DAKOTA
- ☐ Aberdeen*

TENNESSEE
- ☐ Knoxville
- ☐ Memphis
- ☐ Nashville

TEXAS
- ☒ Dallas
- ☐ El Paso
- ☐ Houston
- ☐ Lubbock
- ☐ San Antonio

UTAH
- ☐ Salt Lake City

VERMONT
- ☐ Burlington*

VIRGINIA
- ☐ Richmond
- ☐ Roanoke*

WASHINGTON
- ☐ Seattle
- ☐ Spokane

WEST VIRGINIA
- ☐ Charleston

WISCONSIN
- ☐ Milwaukee

WYOMING
- ☐ Cheyenne*

Signature of Petitioner(s) or Counsel

12/22/23
Date

UNITED STATES TAX COURT

Washington, DC 20217

Michael Austin French	}	
Dawn Michelle French	}	
Petitioners	}	Docket Number:
v.	}	
COMMISSIONER OF INTERNAL REVENUE,	}	Filed Electronically
Respondent	}	

ATTACHMENT TO PETITION

In suport of the Petition Simplified Form 2 filed on December 22, 2023 ("Petition") by Michael Austin French and Dawn Michelle French ("Petitioners"), and answering question numbers 5 and 6 on the Petition, Petitioners state the facts on which they rely, followed by separate assignment of errors, affirmative defenses, and a prayer for relief.

FACTS

PETITIONERS STATE the following facts on which they rely:

1. Petitioners' names are Michael Austin French and Dawn Michelle French.
2. Petitioners are legal residents of the State of Texas.
3. Petitioners' mailing address is 314 West Lennon Drive, Box 139, Emory, Texas 75440.
4. Petitioners filed a claim for refund of amounts withheld, on a joint tax return using Form 1040, for the tax year ended December 31, 2020, with the Austin, Texas, office of the Internal Revenue Service on or before October 15, 2021.
5. Petitioners received Letter 3219 NOTICE OF DEFICIENCY ("NOD") dated October 18, 2023, from the Ogden, Utah, office of the Internal Revenue Service. Included in the NOD are Form 5564 Notice of Deficiency - Waiver, Form 4549 Report

of Income Tax Examination Changes, and Form 886-A Explanation of Items. A genuine copy of the NOD and included Forms, with personal information redacted, is attached.

6. NOD alleges a deficiency in income tax for the tax year ended December 31, 2020:

a. NOD alleges a deficiency in the amount of $10,650.00, which Petitioners dispute;

b. NOD alleges an accuracy-related penalty under IRC §6662(a) in the amount of $4,813.80, which Petitioners dispute;

c. NOD alleges Taxable Interest in the amount of $54.00, which Petitioners dispute;

d. NOD alleges Wages, Salaries and Tips, etc. in the amount of $94,307.00, which Petitioners dispute;

e. NOD alleges a tax liability in the amount of $11,650.00, which Petitioners dispute;

f. NOD alleges an adjusted credit for tax withheld in the amount of $13,419.00, which

Petitioners dispute;

g. NOD alleges Balance due (excluding interest and penalties) in the amount of $24,069.00, which Petitioners dispute;

h. NOD alleges accumulated interest through November 17, 2023, in the amount of $3,862.94, which Petitioners dispute;

i. NOD alleges Amount due in the amount of $32,745.74, which Petitioners dispute;

j. NOD alleges "Person with whom examination changes were discussed" is MICHAEL A & DAWN M FRENCH, which Petitioners dispute.

7. Petitioners were not negligent, nor did Petitioners knowingly or negligently disregard any rules or regulations governing the preparation of tax returns for the tax year ended December 31, 2020.

8. Petitioners were not careless or reckless in the preparation of their tax return for the tax year ended December 31, 2020, and did not

intentionally disregard any tax rules or regulations.

9. Petitioners are not liable for any amount whatsoever of the alleged deficiency in income tax, penalties and interest as set forth by Respondent in the NOD for the tax year ended December 31, 2020.

10. No underpayment of Petitioners' Federal income tax liabilities exist for the tax year ended December 31, 2020.

ASSIGNMENT OF ERRORS

PETITIONERS ALLEGE the following errors have been committed by Respondent in the determination of said deficiency in income tax for the tax year ended December 31, 2020, as set forth in the NOD:

1. Respondent erred in determining a deficiency in Federal income tax for Petitioners for the tax year ended December 31, 2020, in any amount whatsoever;

2. Respondent erred in determining an accuracy-

related penalty under IRC §6662(a) for the tax year ended December 31, 2020, in any amount whatsoever;

3. Respondent erred in determining Petitioners' Taxable Interest for the tax year ended December 31, 2020, in any amount whatsoever;

4. Respondent erred in determining Petitioners' Wages, Salaries and Tips, etc. for the tax year ended December 31, 2020, in any amount whatsoever;

5. Respondent erred in determining Petitioners' tax liability for the tax year ended December 31, 2020, in any amount whatsoever;

6. Respondent erred in determining an adjustment to Petitioners' credit for tax withheld for the tax year ended December 31, 2020, in any amount whatsoever;

7. Respondent erred in determining Petitioners' underpayment of tax for the tax year ended December 31, 2020, in any amount whatsoever;

8. Respondent erred in stating examination changes were discussed with Petitioners;

9. Respondent erred by failing to conduct any good-faith inquiries prior to issuing the NOD in violation of the express statuatory duty to do so under under IRC §6201(a).

AFFIRMATIVE DEFENSES

PETITIONERS FURTHER ALLEGE, as and for separate affirmative defenses:

1. Respondent's purported NOD fails to provide any factual foundation for the allegation of deficiency, and fails to allege any errors of arithmetic or improper deductions on or in regards to Petitioners' return for the tax year ended December 31, 2020;

2. Respondent bears the burden of proof relating to any disputed item of income reported on an information return filed by a third party;

3. Respondent bears the burden of production and proof relating to the purported accuracy-

related penalty;

4. Respondent bears the burden of proof relating to the disputed decrease in credit for tax withheld;

5. Respondent's purported NOD contains a false statement of material fact on Page 1 of 2 of Form 4549 Report of Income Tax Examination Changes where it is stated, "Person with whom examination changes were discussed" were the Petitioners;

6. Respondent's purported NOD contains an arithmetic error in computing the Balance due on Page 1 of 2 of Form 4549 Report of Income Tax Examination Changes where the amount of the alleged deficiency is increased by, rather than offset by, the amount of the alleged overpayment, as per Form 886-A Explanation of Items under the "Frozen Refund" heading:

> "A portion or all of your overpayment is being withheld pending the outcome of this examination. If at the conclusion of the examination a deficiency in tax is determined, the overpayment

> will be applied to the tax deficiency. If the overpayment is less than the deficiency in tax, you will be sent a separate bill for the balance due, including any applicable interest and penalties. Any remaining overpayment will be refunded to you if there are no other taxes or other outstanding legally enforceable debts owed."

7. Respondent failed to conduct any good-faith inquiries prior to issuing the purported NOD in violation of the express statuatory duty to do so under under IRC §6201(a);

8. Respondent's purported NOD fails to state a claim on which relief can be granted. In support of this affirmative defense, Petitioners rely on, reallege, and incorporate by this reference as if fully set forth herein, Affirmative Defense numbers 1 through 7 above and the facts alleged or incorporated therein.

PRAYER FOR RELIEF

WHEREFORE, Petitioners pray this Court issue an order:

1. finding Respondent failed to conduct any good-faith inquiries prior to issuing the purported NOD in violation of the express

statuatory duty to do so under under IRC §6201(a);

2. finding Respondent's allegations of deficiency are entirely lacking in factual foundation and are therefore completely arbitrary, capricious and false;

3. finding Respondent's determinations are erroneous and/or there are no tax, penalties, or interest due whatsoever from Petitioners for the tax year ended December 31, 2020;

4. finding all amounts erroneously withheld by Respondent shall be refunded to Petitioners without the filing of an additional claim, aside from the lawfully prepared and sworn joint tax return on Form 1040 already filed for the tax year ended December 31, 2020;

5. awarding such other and further relief for Petitioners as may be deemed just and proper.