

**In the United States Court of Federal Claims**

No. 09-849T  
(Filed: June 8, 2010)  
(Not for Publication)

\*\*\*\*\*

**RICHARD SHAREEF WILLIAMS,**

**Plaintiff,**

v.

**THE UNITED STATES,**

**Defendant.**

\*\*\*\*\*

\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*

---

**ORDER OF DISMISSAL**

---

Plaintiff pro se brings this action seeking an income tax refund in the amount of \$712,000,001.68, plus interest, for an alleged tax overpayment in 2008. Compl. ¶ 47. Because Plaintiff has failed to comply with the jurisdictional requirements for filing a suit for a tax refund in the Court of Federal Claims, Plaintiff’s complaint is dismissed with prejudice.

**Background**

Plaintiff “Richard Shareef Williams (c)” alleges that in 2008, the Internal Revenue Service withheld income taxes from him in the amount of \$712,000,001.68, as indicated on his Form 1040 filed on April 28, 2009. Compl. ¶¶ 17, 47. Plaintiff claimed no regular income for the year, but rather “other” income “[f]rom issues still being held by Recipient(s),” which he listed on several Forms 1099-OID attached to his return. Def.’s Mot. for an Order Dismissing the Compl. (“Def.’s Mot.”) Ex. 2. He further claimed that all of the roughly \$712 million was illegally collected by the IRS in the form of withheld income tax, that he did not owe any tax on the income, and that he is owed a refund of the full amount. Compl. ¶¶ 28-40. IRS records indicate that Plaintiff’s 2008 return was received on April 30, 2009, but was deemed frivolous and sent back to Plaintiff. Compl. Attach. B; Def.’s Mot. Ex. 1. IRS records also indicate that no income tax was actually withheld, paid, or owed by Plaintiff in 2008. Def.’s Mot. Ex. 1.

## Discussion

Defendant moves for dismissal for lack of subject matter jurisdiction and failure to state a claim upon which relief may be granted pursuant to Rules 12(b)(1) and 12(b)(6) of the Rules of the Court of Federal Claims (“RCFC”).

Subject matter jurisdiction must be established before the Court may proceed to the merits of an action. BearingPoint, Inc. v. United States, 77 Fed. Cl. 189, 193 (2007) (citing Steel Co. v. Citizens for a Better Env’t, 523 U.S. 83, 88-89 (1998)). Plaintiff bears the burden of establishing jurisdiction by a preponderance of the evidence. Reynolds v. Army & Air Force Exch. Serv., 846 F.2d 746, 748 (Fed. Cir. 1988); see also Thomson v. Gaskill, 315 U.S. 442, 446 (1942). When a party seeks a Rule 12(b)(1) dismissal based on the sufficiency of the complaint’s allegations on their face, those allegations are presumed to be true and are construed in a light most favorable to the complainant. Cedars-Sinai Med. Ctr. v. Watkins, 11 F.3d 1573, 1583 (Fed.Cir. 1993) (citing Scheuer v. Rhodes, 416 U.S. 232, 236 (1974)).

The Tucker Act confers jurisdiction on the Court of Federal Claims over suits for the refund of taxes. 28 U.S.C. § 1346(a)(1) (2006); United States v. Clintwood Elkhorn Min. Co., 553 U.S. 1, 4 (2008). However, jurisdiction in this Court is limited to those claims in which the taxpayer has paid fully all tax assessed prior to the initiation of the claim. Shore v. United States, 9 F.3d 1524, 1526 (Fed. Cir. 1993) (citing Tonasket v. United States, 590 F.2d 343, 218 Ct. Cl. 709, 711-12 (1978)); Russell v. United States, 78 Fed. Cl. 281, 286-87 (2007). In addition, Section 7422 of the Internal Revenue Code (“Code”), provides that “[n]o suit or proceeding shall be maintained in any court for the recovery of any internal revenue tax alleged to have been erroneously . . . collected . . . until a claim for refund or credit has been duly filed with the Secretary.” 26 U.S.C. § 7422(a) (2006). In other words, the taxpayer must comply with the refund procedures and limitations set forth in the Code in order for the Court’s jurisdiction to vest. If the Court finds that it does not have jurisdiction, it must dismiss the case. See Steel Co., 523 U.S. at 94 (“Without jurisdiction the court cannot proceed at all in any course.” (quoting Ex parte McCardle, 74 U.S. (7 Wall.) 506, 514 (1868))).

Failure to comply with these jurisdictional prerequisites will preclude the Court from hearing the case. Although the Court scrutinizes pleadings filed by pro se litigants under a more generous standard than those drafted by lawyers, “this latitude . . . does not relieve a pro se plaintiff from meeting [the] jurisdictional requirements” of the Court of Federal Claims. Steinberg v. United States, 90 Fed. Cl. 435, 443 (2009) (quoting Bernard v. United States, 59 Fed. Cl. 497, 499 (2004), aff’d, 98 Fed. Appx. 860 (Fed. Cir. 2004)).

The nature of Plaintiff’s claim is somewhat difficult to discern. In some places, Plaintiff characterizes his action as one for a tax refund, and in others, as an action against the IRS for improper collection of taxes. While the Court of Federal Claims has jurisdiction to hear the former, jurisdiction over the latter is reserved to the federal district courts. See 26 U.S.C.

§§ 7422(a), 7433(a) (2006). The Court addresses both characterizations of Plaintiff's complaint in turn.

As an action for a tax refund, the complaint must be dismissed pursuant to RCFC 12(b)(1) for lack of subject matter jurisdiction because Plaintiff has failed to satisfy the jurisdictional prerequisites in § 7422(a). The Form 1040 filed by Plaintiff does not satisfy the substantive requirements for the filing of a refund claim, as it does not set forth in any detail whatsoever "the ground upon which the refund is claimed." Nor does Plaintiff's refund claim include "facts sufficient to apprise" the IRS of the exact basis of Plaintiff's claim of overpayment. See 26 C.F.R § 301.6402-2(b)(1); Computervision Corp. v. United States, 445 F.3d 1355, 1362-63 (Fed. Cir. 2006) (recognizing that the purpose of § 301.6402-2(b)(1) is to "prevent surprise" and "give adequate notice" to the IRS of the nature of the refund claim).

In addition, Plaintiff has failed to establish a requisite jurisdictional fact, *i.e.*, that he actually paid the tax he seeks to have refunded. IRS records indicate that no income tax was assessed against Plaintiff in 2008, and no tax payments were received from Plaintiff for that tax year. Because Plaintiff has failed to satisfy the jurisdictional prerequisites for bringing a suit for refund of such taxes under § 7422(a), this Court must dismiss the action for lack of subject matter jurisdiction.

Given the ambiguity of the complaint, it is also possible that Plaintiff asserts an action for the illegal collection of taxes. Even if the Court were to read the complaint this way, the Court would lack subject matter jurisdiction over such a claim. Section 7433(a) of the Code provides a remedy in civil damages for the unauthorized collection of taxes. In relevant part, the statute provides:

If, in connection with any collection of Federal tax with respect to a taxpayer, any officer or employee of the Internal Revenue Service . . . disregards any provision of this title . . . such taxpayer may bring a civil action for damages against the United States in a district court of the United States. Except as provided in section 7432, such civil action shall be the exclusive remedy for recovering damages resulting from such actions.

26 U.S.C. 7433(a) (emphasis added); see also Betz v. United States, 40 Fed. Cl. 286, 293 (1998) (holding that under § 7433, the Court of Federal Claims lacked jurisdiction over plaintiff's claim for money damages resulting from the unauthorized collection of taxes). Because § 7433(a) grants exclusive jurisdiction over claims of damages stemming from the unauthorized collection of taxes to the United States district courts, this Court lacks jurisdiction to hear such a claim.

**Conclusion**

Defendant's Motion to Dismiss is **GRANTED**, and Plaintiff's complaint is **DISMISSED WITH PREJUDICE**.

s/Mary Ellen Coster Williams

**MARY ELLEN COSTER WILLIAMS**

**Judge**