

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

MEMORANDUM

JS 6

Case No. CV 12-7596 DSF (PJWx)

Date 10/10/12

Title Nathan V. Anderson v. United States of America

Present: The Honorable DALE S. FISCHER, United States District Judge

Debra Plato

Not Present

Deputy Clerk

Court Reporter

Attorneys Present for Plaintiffs:

Attorneys Present for Defendants:

Not Present

Not Present

**Proceedings:** (In Chambers) Order GRANTING Petition to Quash IRS  
Summons<sup>1</sup> (Docket No. 1)

Petitioner has moved to quash an IRS summons on the following grounds: (1) the IRS Revenue Officer did not have the authority to issue the summons, and (2) Petitioner did not receive notice as required by 26 U.S.C. § 7609. The Court finds that the Revenue Officer had the authority to issue the summons. As for notice, the government argues that the notice and right to challenge provisions of § 7609 do not apply to this summons because the summons was issued in aid of collection of assessed taxes. See 26 U.S.C. § 7609(c)(2)(D)(I). But there is no evidence in the record that the summons at issue was issued in aid of the collection of a tax assessment. The declaration of the Revenue Officer states (somewhat ungrammatically) that he is

conducting an investigation on the collectability of the following unpaid federal tax liabilities of Nathan V. Anderson . . . for the taxable periods ended December 31, 2004, December 31, 2005, December 31, 2006, December 31, 2007, and December 31, 2008 (also known as the tax years 2004, 2005, 2006, 2007, and 2008), which federal tax liabilities are hereinafter collectively referred to as “the tax periods at issue.”

Magdaleno Decl. ¶ 5. Despite the use of the term “following” there is no further description of the alleged tax liabilities other than the disclosure of the relevant tax years.

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<sup>1</sup> The Court deems this matter appropriate for decision without oral argument. See Fed. R. Civ. P. 78; Local Rule 7-15. The hearing set for October 15, 2012 is removed from the Court’s calendar.

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There is nothing in the declaration or in the attached exhibits that indicates that an actual tax assessment has been made by the IRS.

The petition to quash the summons is GRANTED.

IT IS SO ORDERED.