UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEBRASKA

IN THE MATTER OF	)	
	)	
SAMUEL SPURGEON,	)	CASE NO. BK92-81876
	)	
DEBTOR	)	CH. 13

MEMORANDUM

Hearing was held on October 1, 1993, on Samuel Spurgeon's Objection to Claim and Resistance by USA. Appearing on behalf of USA was Robert Metcalfe of the Department of Justice, Washington, D.C. Kathleen Laughlin appeared as Trustee. Samuel Spurgeon appeared pro se. This memorandum contains findings of fact and conclusions of law required by Fed. Bankr. R. 7052 and Fed. R. Civ. P. 52. This is a core proceeding as defined by 28 U.S.C. § 157(b)(2)(B).

Background

The debtor, Samuel J. Spurgeon, filed this Objection To Proof of Claim to challenge the claim filed by the United States of America through the Internal Revenue Service (IRS). The debtor filed a Chapter 13 petition on November 2, 1992. The IRS filed a proof of claim on February 8, 1993 claiming that the debtor owed the IRS $24,137.13 in priority claims and $6,893.39 in general unsecured claims, which resulted after the IRS determined the debtor's tax liability for the 1984 through the 1991 taxable years. Both parties agree that the debtor did not file any tax returns during those years. The debtor objected to the IRS Proof of Claim on July 1, 1993.

A hearing regarding the debtor's objection was held on October 1, 1993. During the hearing, this judge ruled upon and denied several arguments advanced by the debtor that challenged the technical aspects of the IRS claim forms. The debtor did not address the accuracy of the dollar amount of the IRS claim. Instead, the debtor's remaining objection is that as a matter of law the debtor is not liable for income taxes and does not need to file income tax returns.

Issues

The issues are whether the debtor was obligated to file a tax return and pay taxes under the statutes of the United States and the regulations promulgated by the Treasury Department, and whether the IRS had the authority to estimate the debtor's tax liability for 1990 and 1991 without actual knowledge of the debtor's true income.

Discussion

The Internal Revenue Code at 26 U.S.C. § 1 et seq. imposes a tax on every individual who has taxable income. "Taxable Income" is gross income minus permissible deductions under the Code. 26 U.S.C. § 63(a) (1992). Gross income is "all income from whatever source derived including ... [c]ompensation for services." 26 U.S.C. § 61(a)(1) (1992). During the hearing, the debtor argued that the income derived from his jobs as a contract farm worker and a "jack of all trades" was not "gross income" under the Code. The argument is without merit because § 61(a) is interpreted broadly to encompass any economic or financial benefit from any source, conferred in any form on any employee or self employed individual. Pascoe v. Internal Revenue Service, 580 F. Supp. 649 (E.D. Mich. 1984). See Ritter v. United States, 183 Ct. Cl. 875, 393 F.2d 823 (Ct. Cls.), cert. denied, 393 U.S. 844, 89 S. Ct. 127, 21 L. Ed. 2d 115 (1968).

The debtor's next argument is that the existence of taxable income does not automatically require that a tax return be filed. The debtor is correct. Under 26 U.S.C. § 6011(a), an individual with taxable income needs to file a tax return only if the regulations promulgated by the Secretary require the person to do so. Currently, the Regulations and the Internal Revenue Code state that an individual must file a tax return if the individual's gross income exceeds a specific dollar amount. See Individuals Required to Make Returns of Income, 26 C.F.R. 1.6012-1(a)(2)(iii)(a) (1992); 26 U.S.C. § 6012(a)(1)(A) United States v. Drefke 707 f.2d 978 (8th Cir. 1983). (1992). During the years in question, the minimum level of gross income for required filing was probably less than the amount currently required.

Neither at the hearing or at any other time did the debtor offer any evidence concerning his gross income during the years in question. The debtor has not cooperated with the IRS in its effort to compute the debtor's tax liabilities for the years 1984 through 1991. Because the debtor has been totally unhelpful to the IRS and the Court concerning this issue, the debtor's argument that he was not required to file tax returns for those years is rejected. The Court finds, based upon debtor's admission that he received payments for services during the years in question, that he was required to file a tax return.

The debtor's final argument is that the IRS does not have the authority to estimate his tax liability in the absence of a tax return. The debtor's position is without merit. Once it was determined that a tax return was required, the debtor was obligated, without assessment, notice or demand, to pay the taxes that he owed to the IRS within the time and at the place designated on the return. United States v. Drefke, 707 F.2d 978, 981 (8th Cir. 1983); 26 U.S.C. § 6151.

The IRS may prepare a tax return using its own knowledge and from such information as is obtainable in the event an individual fails to file a tax return. Such returns are good for all legal purposes. 26 U.S.C. § 6020(b) (1992); 26 C.F.R. §301.6020-1(b)(2) (1992). IRS-prepared returns under § 6020(b) serve as substitutes for returns for assessment purposes, but do not relieve the taxpayer of his obligation to file a tax return. Moore v. C.I.R., 722 F.2d 193 (5th Cir. 1984). The method used by the IRS to compute the tax only needs to be reasonable, and the method selected by the IRS is deemed to be correct. United States v. Firtel, 446 F.2d 1005 (5th Cir. 1971). Since the debtor did not contest the reasonableness of the method with which the IRS estimated his liability and since the debtor only contested the IRS's authority to estimate, this court finds that the IRS has the authority to estimate the debtor's tax liability and that the IRS's computation is reasonable.

If the debtor would like to challenge the IRS's determination of his tax liability, the debtor must introduce specific evidence to refute the presumption that the IRS's estimation is correct. United States v. General Dynamics Corp., 481 U.S. 239, 245, 107 S. Ct. 1732, 1737, 95 L. Ed. 2d 226 (1987). Since the IRS was acting within its statutory authority when it determined the debtor's liability, it is the debtor's burden to challenge the IRS's estimation and not the duty of the court or the IRS to guess what kind of adjustments or deductions the debtor is entitled to receive. Buelow v. Commissioner, 970 F.2d 412, 415 (7th Cir. 1992).

The Objection filed by the debtor is denied. The decision of this court is that the IRS correctly followed statutory guidelines when the IRS proceeded to estimate the debtor's tax liability after the debtor failed to file income tax returns. The debtor did not submit any evidence to refute the reasonableness of the IRS estimates, and because of the failure to present evidence, the IRS claims are valid as a matter of law.

A separate journal entry shall be entered.

DATED: November 3, 1993.

BY THE COURT:

/s/ Timothy J. Mahoney
Timothy J. Mahoney
Chief Judge

CC: Movant, Debtor(s) Atty. and all parties appearing at hearing
[X] Chapter 13 Trustee [ ] Chapter 12 Trustee [ ] U.S.Trustee

Movant is responsible for giving notice of this journal entry to any parties in interest not listed above.