

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

February 23, 2012

No. 11-60461
Summary Calendar

Lyle W. Cayce
Clerk

SUSAN LEE

Petitioner-Appellant

v.

COMMISSIONER OF INTERNAL REVENUE

Respondent-Appellee

Appeal from the United States Tax Court,
Internal Revenue Service

Before HIGGINBOTHAM, DAVIS and ELROD, Circuit Judges.

PER CURIAM:*

The appellant taxpayer challenges a \$5,000 penalty imposed by the IRS for filing a frivolous return and a \$1,000 penalty imposed by the Tax Court for using frivolous and groundless arguments. We affirm.

The taxpayer filed a timely tax return for taxable year 2004 reporting income she received from two entities which had withheld tax on those earnings. Two years later she filed an amended tax return modifying her 1099 form reflecting that she received zero compensation from the entities listed on the

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

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1099. She sought a return of the taxes previously paid because, she argued, the amounts shown on her original 1099 were not taxable income, that she was not a person subject to tax penalty or levee and that she was not involved in a trade or business.

We agree with the Tax Court that the taxpayer's amended tax return was frivolous on its face and that the IRS was completely justified in assessing the \$5,000 penalty for filing a frivolous return under I.R.C. § 6702. Thereafter the taxpayer made nothing but frivolous and groundless arguments to the appeals office and the Tax Court.

The Tax Court did not err in sustaining the penalty imposed by the Internal Revenue Service or in *sua sponte* imposing a \$1,000 penalty for maintaining a frivolous proceeding under I.R.C. § 6673. The Tax Court correctly permitted the proposed levy to go forward to collect the penalties.

AFFIRMED.