IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLORADO

Civil Action No. 1:18-cv-02273-PAB-NRN

JEFFREY T. MAEHR,

Plaintiff,

v.

UNITED STATES,

Respondent.

UNITED STATES' RENEWED MOTION TO DISMISS IN LIGHT OF PLAINTIFF'S "AMENDED BRIEF" AND "ADDENDUM TO AMENDED BRIEF" (Dkts. 70 and 78).

Plaintiff Jeffrey T. Maehr seeks to challenge tax liabilities that have already been adjudicated in other courts. The suit should be dismissed under Fed. R. Civ. P. 12(b)(1) & (6).

I. BACKGROUND

A. Mr. Maehr's previous attempts to challenge the assessments at issue

Mr. Maehr has a long history of disputes with the IRS.[1] Since 2008, he has brought at least 10 lawsuits challenging various tax obligations or the IRS's attempts to collect them. These

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[1] *See e.g.*, *Maehr v. United States*, No. CIV.A. 3:08MC3-HEH, 2008 WL 4491596, at *1 (E.D. Va. July 10, 2008); *Maehr v. United States*, No. 3:08-MC-00067-W, 2008 WL 2705605, at *2 (W.D.N.C. July 10, 2008); *Maehr v. United States*, No. MC 08-00018-BB, 2008 WL 4617375, at *1 (D.N.M. Sept. 10, 2008); *Maehr v. United States*, No. C 08-80218 (N.D. Cal. April 2, 2009); *Maehr v. United States*, No A-09-CA-097 (W.D. Tex. April 10, 2009); *Maehr v. United States*, No. 8:08CV190, 2009 WL 2507457, at *3 (D. Neb. Aug. 13, 2009) *Maehr v. United States*, No. CIV. 08-cv-02274-LTB-KLM, 2009 WL 1324239, at *3 (D. Colo. May 1, 2009); *Maehr v. Commissioner*, No. CV 15-mc- 00127-JLK-MEH, 2015 WL 5025363, at *3 (D. Colo. July 24, 2015), *aff'd*, 2016 WL 475402 (10th Cir. Feb. 8, 2016); *Maehr v. United States*, No. 17-1000 T, 137 Fed. Cl. 805, 807 (2018); *Maehr v. Koskinen*, No. 16-cv-00512-PAB-MJW, 2018 U.S. Dist. LEXIS 46292, at *1 (D. Colo. Mar. 21, 2018).

include a petition Mr. Maehr filed in the United States Tax Court in 2011 to challenge deficiencies the IRS calculated for his 2003-2006 income taxes.[2] Those are the very years he addresses here. (*See* Dkt. 70 at 17). The Tax Court ruled for the IRS, and the Tenth Circuit affirmed. *See Maehr v. Commissioner*, 480 F. App'x 921, 922 (10th Cir. 2012). The time t appeal the Tenth Circuit's decision has expired, and the decision is now final.

With limited exceptions not applicable here, once a "taxpayer files a [timely] petition with the Tax Court … no suit by the taxpayer for the recovery of any part of the tax shall be instituted in any court" for those tax years. 26 U.S.C. § 6512(a) (laying out rule and exceptions). However, Mr. Maehr was undeterred. He brought another suit, this time in the Court of Federal Claims, challenging the same tax years. *Maehr v. United States*, 137 Fed. Cl. 805 (2018). That court dismissed his claims on multiple grounds, including the fact that the liabilities had already been decided in the Tax Court proceeding. *Id*. at 814-15.

B. The Current Litigation

That brings us to the present dispute. Acting *pro se*, Mr. Maehr brought this suit on September 4, 2018, and later filed a second, related action. (*See* Case No. 1:18-cv-02948-PAB-NRN). The first complaint was patently deficient, so the Court ordered him to amend. (*See* Dkt. 5 (Order)). He filed new pleadings. Again, the Court directed him to address various shortcomings or face dismissal. (*See* Dkt. 10). On December 3, 2018, he filed his pleading yet again. (Dkt. 14). The gist of that pleading was that the government had "manufactur[ed]

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[2] The Tax Court docket and decision (dated August 19, 2011) are available at https://www.ustaxcourt.gov/USTCDockInq/DocketDisplay.aspx?DocketNo=11010758 (last viewed May 29, 2019). *See* Case No. 10758-11. A copy of the decision is attached at Exhibit A, for the Court's convenience.

frivolous assessments" against him for the 2003-2006 tax years, which put him in danger of losing his passport under 26 U.S.C. § 7345. (Dkt. 14 at ECF pg. 7-9).

Section § 7345 is a relatively new law under which taxpayers with substantial tax debts may be denied passports (or have existing passports revoked), subject to various safeguards. There is little if any caselaw specifically interpreting it, so the Court appointed *pro bono* counsel to represent Mr. Maehr. Mr. Maehr's counsel filed a new complaint in the second action (Case No. 18-cv-02948-PAB-NRN) that challenged the government's authority to revoke passports for unpaid tax debts, but that did not dispute that Mr. Maehr had such debts. Counsel also sought to withdraw from this case, and to represent Mr. Maehr only on the passport issues. Meanwhile, Mr. Maehr filed a new, *pro se* pleading in this suit entitled "Amended Brief" (Dkt. 70), and has filed various other motions, including a request to appoint a criminal grand jury to investigate the IRS (Dkt. 29) and a request for a preliminary injunction. (Dkt. 45).

With the consent of the parties, the Court determined that the "Amended Brief" (Dkt. 70) would be deemed the new, operative pleading in this suit, and that any claims in that pleading relating to Mr. Maehr's passport or ability to travel were dismissed. (*See* Dkt. 77 at 2 (minute entry from status conference)). Mr. Maehr has since filed a supplemental document entitled "Addendum to Amended Brief." (Dkt. 78). The undersigned construes the two filing as a single pleading, and as the operative complaint. (However, the United States reserves the right to ask the Court to hold Mr. Maehr to Fed. R. Civ. P. 15 and other requirements for amending the pleadings in the future.)

C. The Instant Complaint

The new pleading, like earlier iterations, alleges that that government has "manufactur[ed] frivolous assessment figures" for the 2003-2006 tax years. (*See* Dkt. 70 at 1-2

and 17 (listing the "assessment years.")). Mr. Maehr acknowledges that he has brought "multiple suits" challenging the assessments against him, but argues that he has been denied a fair hearing. (*See id.* at 3). More specifically, he purports to state three claims for relief in the Amended Brief, and a fourth in the Addendum, as follows:

1. The first claim appears to ask the Court to compel the government to produce "pre-assessment" records Mr. Maehr believes the IRS used to calculate his tax liabilities. (*Id*. at 5). He suggests that the outcome of his earlier cases would have been different had such "evidence" been available. (*Id*. at 8).
2. The second claim appears to be a request for compensatory and punitive damages "based on fraud." His theory seems to be that the tax assessments are incorrect, and therefore fraudulent, and that the Court should punish the IRS.
3. The third claim seeks attorneys' fees and costs for the time Mr. Maehr has incurred in this lawsuit, or such other relief as the court may deem appropriate for general harm to his "rights, finances, living, health and [] emotional state for well over ten years." *Id*. at 9.
4. Finally, the "Additional Claim" suggests that the government is maintaining an "Individual Master File" or 'IMF" that will show that the assessments are fraudulent (*see* Dkt. 78 at 1). He asks for an order compelling the government to produce it (though he says he has already made a separate FOIA request for it. (*Id.* at 2.))

II. ARGUMENT

The Court should dismiss Mr. Maehr's suit pursuant to Fed. R. Civ. P. 12(b)(1) and/or 12(b)(6).[3] The Court's Practice Standards state that for each claim for relief that the movant seeks to have dismissed, the movant should clearly enumerate the element that the movant contends must be alleged, but was not. The United States submits that the fundamental problem with Mr. Maehr's suit is that the Court cannot hear his claims at all, because the tax years at issue have already been adjudicated, and because the Court otherwise lacks jurisdiction, and asks the Court's indulgence to the extent these points do not lend themselves to the format the Court usually requires.

A. Standard for Decision

1) Mr. Maehr is pro se*, but he must still allege a cognizable claim.*

Because Mr. Maehr is *pro se*, the Court should construe his pleadings liberally. *See*, *e.g.*, *Walker v. Horton*, 2011 U.S. Dist. LEXIS 8443, at *8 (D. Colo. Jan. 27, 2011) (citations omitted). But that does not mean the Court can serve as Mr. Maehr's advocate, or that he is freed from the burden of establishing a cognizable claim. *Id*. *Pro se* parties must also follow the Federal Rules of Civil Procedure, just like other litigants. *See United States v. Goodman*, 2012 U.S. Dist. LEXIS 18548, at *6 (D. Colo. Feb. 15, 2012). These include Rule 8's requirement that a pleading provide a clear statement of jurisdiction.

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[3] The undersigned counsel and Mr. Maehr have conferred repeatedly concerning his claims, including during several lengthy telephone calls on and around March 8, 2019. The parties had an additional half-hour conversation on May 31, 2019, after exchanging messages the day before. The United States submits that this Court does not have jurisdiction to hear Mr. Maehr's claims, and that the jurisdictional defect cannot be corrected through further amendment.

2) Rule 12(b)'s requirements

Mr. Maehr's claims should be dismissed for lack of jurisdiction under Fed. R. Civ. P. 12(b)(1). As the party bringing suit in federal court, Mr. Maehr bears the burden of showing that the Court has subject matter jurisdiction to hear his claims. *See, e.g., Wilson v. United States*, 2000 U.S. Dist. LEXIS 560, at *8, (D. Colo. Jan. 4, 2000), *citing Henry v. Office of Thrift Supervision*, 43 F.3d 507, 512 (10th Cir. 1994). If a court lacks jurisdiction, it cannot proceed. *United States* v. *Goodman*, 2012 U.S. Dist. LEXIS 18548, *7 (D. Colo. Feb. 15, 2012), *citing Basso v. Utah Power & Light Co*., 495 F.2d 906, 909 (10th Cir. 1974). Here, subject matter jurisdiction is tied to sovereign immunity. The United States cannot be sued unless it has explicitly agreed to waive its sovereign immunity. *See Delgado v. Gonzales*, 428 F.3d 916, 919 (10th Cir. 2005). If there is no waiver, the Court has no subject matter jurisdiction. *See United States v. Nordic Vill.,Inc*., 503 U.S. 30, 33-34 (1992); *Price v. United States*, 7 F.3d 968, 969 (10th Cir. 1993).

Critically, a court considering a motion under Rule 12(b)(1) may make findings as to jurisdictional facts, and consider documents that are outside the pleadings, without converting the motion to one for summary judgment. *Smith v. United States*, 2014 U.S. Dist. LEXIS 42202, at *25-26 (D. Colo. Feb. 6, 2014). Such documents may include public records, like court materials. *Grynberg v. Koch Gateway Pipeline Co*., 390 F.3d 1276, 1278 n.1 (10th Cir. 2004).

Mr. Maehr's case could also be dismissed pursuant to Fed. R. Civ. P. 12(b)(6), which concerns the sufficiency of the complaint. *Davis v. United States*, 343 F.3d 1282, 1295 (10th Cir. 2003). While the Court must generally assume the facts as alleged are true, those facts must support a claim on which relief can be granted. *Goodman*, 2012 U.S. Dist. LEXIS 18548 at*6, *citing Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007) (add'l citations omitted). A

plaintiff's factual allegations must be substantial enough to raise the right to relief "above the speculative level." *Id*. at 555. The mere possibility that the plaintiff could prove facts that would support the claims is not enough. *Ridge at Red Hawk, LLC v. Schneider*, 493 F.3d 1174, 1177 (10th Cir. 2007). The complaint must provide real reason to believe that the plaintiff has "a reasonable likelihood of mustering factual support for these claims." *Id.*

B. The Doctrine of *Res Judicata* and 26 U.S.C. § 6512(a) Bar Mr. Maehr's Suit.

When a court of competent jurisdiction has entered a final judgment on a claim, the doctrine of *res judicata* bars the parties from bringing the same claims in a different court. *See, e.g*., *Tanne v. Commissioner*, 2018 U.S. Dist. LEXIS 23149, at *3 (D. Utah Feb. 12, 2018) (dismissing challenges to assessments where Tax Court had determined liabilities), *citing Comm'r of Internal Revenue v. Sunnen*, 333 U.S. 591, 597 (1948). In tax cases, "a final decision of the Tax Court is *res judicata* as to the tax liability determined by that court, and is not subject to collateral attack in a later proceeding." *United States v. Springer*, 2010 U.S. Dist. LEXIS 18802, at *44-45 (N.D. Okla. Mar. 3, 2010); *see also United States v. Annis*, 634 F.2d 1270, 1272 (10th Cir. 1980). The doctrine extends to claims the plaintiff could have brought in the earlier proceeding, not only those actually decided. *Springer*, 2010 U.S. Dist. LEXIS 18802, at *44-45.

The doctrine promotes judicial economy, and, perhaps even more critically, the interests of certainty and finality in legal disputes. *See, e.g*., *Sunnen*, 333 U.S. at 597. These principles are particularly important in the tax administration context, and Congress has, in effect, codified them. The Internal Revenue Code provides that, subject to limited exceptions, once a "taxpayer files a [timely] petition with the Tax Court … no suit by the taxpayer for the recovery of any part of the tax shall be instituted in any court" for those tax years. 26 U.S.C. § 6512(a) (laying out

rule and exceptions); *see also Wilson v. United States*, 2000 U.S. Dist. LEXIS 560, at *18-19 (D. Colo. Jan. 4, 2000).

Res judicata and § 6512(a) apply here. The Tax Court adjudicated Mr. Maehr's liabilities. The Tax Court's opinion (attached here as Exhibit A) shows that the court dismissed Mr. Maehr's petition and made a finding as to each of the 2003-2006 tax years. (The Tax Court's dismissal for failure to state a claim counts as a final decision for *res judicata* purposes. See *Springer*, 2010 U.S. Dist. LEXIS 18802, at *44-45.)

The Tenth Circuit affirmed, observing that Mr. Maehr had "fail[ed] to specifically identify errors related to the determination of his income tax deficiencies" even though the Tax Court had given him opportunities to amend. *Maehr*, 480 Fed. Appx. at 923. Instead, he raised broad challenges to the Constitutionality of the tax system that other courts have repeatedly rejected as frivolous. *Id.* He had also argued, *inter alia*, that the IRS is an agency of the International Monetary Fund, and that the Form 1040 is illegitimate because it does not have an OMB control number. *See id*. at 922.

In general, taxpayers are required to file returns reporting their incomes. 26 U.S.C. § 6012. Gross income is defined to include "all income from whatever source derived", unless specifically excepted under the Internal Revenue Code. The Code certainly permits numerous deductions from gross income, but the burden is on the taxpayer to substantiate them. *See, e.g.*, *INDOPCO, Inc. v. Comm'r*, 503 U.S. 79, 84 (1992) ("[A]n income tax deduction is a matter of legislative grace and [] the burden of clearly showing the right to the claimed deduction is on the taxpayer."). What that means here is that if Mr. Maehr wanted to dispute the IRS's calculations, he was responsible for showing what he believed his taxable income to be. He now suggests he has not received fair hearings because he did not have documents he believes the IRS used to

determine his taxes. He has it backwards. He had the opportunity to show the Tax Court what his liabilities should be. If he chose to focus on other arguments, he does not get a do-over now.

Indeed, Mr. Maehr has already attempted to un-do the Tax Court's ruling by bringing suit in the Court of Federal Claims. *Maehr v. United States*, 137 Fed. Cl. 805 (2018). That court determined that § 6512(a) barred his suit, just as it does here. *See id*. at 814 (reasoning that "electing initially to file such claims in the United States Tax Court places them exclusively within the [] Tax Court's jurisdiction" and dismissing the suit on that and other grounds) (citations omitted). Coincidentally, another taxpayer also brought suit in the Court of Federal Claims and then this District, on tax years that the Tax Court had ruled on. A Magistrate considering the case reasoned that courts must consider jurisdictional issues before considering *res judicata*, but concluded that § 6512(a) defeated jurisdiction. *Smith v. United States*, 2014 U.S. Dist. LEXIS 42202, at *32 (D. Colo. Feb. 6, 2014). This court should reach the same result.

Mr. Maehr may argue that he is seeking an order to compel the production of documents, not to challenge the underlying assessments, but he has already filed a FOIA request. He may also say he did not get due process in the Tax Court, because, in his view, the court did not properly analyze his claims, weigh the evidence he presented, or provide him discovery he wanted. This Court has no jurisdiction to overrule the Tax Court. If the Court has no jurisdiction, it not only cannot compel documents, it also cannot award monetary relief or fees or grant Mr. Maehr the other relief he seeks. The Court should dismiss Mr. Maehr's suit.

C. Other Law Also Bars Mr. Maehr's Suit, and He Has Not Alleged Any Exceptions are Met.

Even if *res judicata* did not apply, Mr. Maehr cannot prevail because the Anti-Injunction Act and the Declaratory Judgment Act bar suits to restrain the assessment or collection of federal taxes. 26 U.S.C. § 7421(a); 28 U.S.C. § 2201(a). *See also Ambort v. United States*, 392 F.3d

1138, 1140 (10th Cir. 2004); *Brasfield v. IRS,* 2002 U.S. Dist. LEXIS 12786 at *6 (D. Colo. June 4, 2002) (Anti-Injunction Act's purpose "is to allow the government to conduct its business expeditiously in the assessment and collection of taxes without judicial intervention[.]"). As a practical matter, the two statutes are coextensive. *Ambort*, 392 F.3d at 1140. To overcome the Acts, Mr. Maehr would have to allege that either a) a statutory exception is met or b) a judicial exception is met.

1) Mr. Maehr has not alleged that a statutory exception is met.

The two Acts offer statutory exceptions, but they are inapplicable here. The Declaratory Judgment Act notes an exception under 26 U.S.C. § 7428, which addresses non-profit organizations. The Anti-Injunction Act lists several other statutes pursuant to which taxpayers may challenge certain IRS decisions or actions, *see* 26 U.S.C. 7421(a), but Mr. Maehr does not (and cannot) assert a claim under any of them.[4]

2) Mr. Maehr has not shown that a judicial exception is met.

Courts also recognize narrow, judicial exceptions to the Anti-Injunction Act, but they are not applicable here either. The first, known as *Regan*, applies if Congress has not provided any alternative way to challenge the taxes at issue. *See LNV Corp. v. Hook*, 638 F. App'x 667, 673 (10th Cir. 2015), *citing South Carolina v. Regan*, 465 U.S. 367, 373 (1984). The second, the *Williams Packing* exception, was at issue in an earlier suit Mr. Maehr brought in this District, which has since been dismissed. It applies if (1) it is clear there are no circumstances in which the government could ultimately prevail, and (2) equity jurisdiction otherwise exists, *i.e.*, the

[4] For example, the exceptions address "innocent spouse" relief (§ 6015(e)) and procedures for challenging a notice of deficiency (which Mr. Maehr did, in the Tax Court) (§§ 6212(a) and (c).

taxpayer would otherwise suffer irreparable injury. *Maehr v. Koskinen,* 2018 U.S. Dist. LEXIS 47383, *8 (D. Colo. Feb. 20, 2018), *citing Enochs v. Williams Packing & Nav. Co.*, 370 U.S. 1, 7 (1962); *see also, e.g., Brasfield*, 2002 U.S. Dist. LEXIS 12786 at *6-8.

Mr. Maehr cannot meet either exception. First, Congress provided at least two ways to challenge the liabilities at issue. Section 6213 of Title 26 allows taxpayers to petition the Tax Court without having to pay the tax first, before the IRS makes an assessment.[5] That is what Mr. Maehr did. Or, if the IRS has already made an assessment, the taxpayer can pay the tax and seek a refund in District Court under 26 U.S.C. § 7422, assuming certain prerequisites are met. Because he had adequate avenues for review, Mr. Maehr cannot meet the *Regan* exception. It also means he cannot meet the first *Williams-Packing* prong: he cannot show there are no circumstances in which the government can prevail. The liabilities have already been adjudicated, and the United States prevailed. It is Mr. Maehr who cannot prevail.

Mr. Maehr cannot meet the second *Williams-Packing* prong either, because he cannot show irreparable harm. Mr. Maehr has not clearly alleged what his total income and expenses are. He may sincerely believe the IRS's attempts to collect his taxes are burdensome. But that does not mean he will suffer irreparable harm if the Court dismisses his suit.

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[5] As a technical matter, the Tax Court adjudicates "deficiencies", which differ from "assessments." A deficiency arises when the IRS believes that a taxpayer's true liability is greater than what the taxpayer reported on his or her return, if anything. *See* 26 U.S.C. § 6211(a). The IRS must notify the taxpayer of the deficiency, and the taxpayer may contest it by petitioning the Tax Court within a specified period. A taxpayer may appeal a Tax Court decision to the Court of Appeals for the relevant circuit. *See* 26 U.S.C. § 6213(a). That is the path Mr. Maehr took. By contrast, assessment is the general term for the formal recording of a tax liability. *See* 26 U.S.C. § 6203. The IRS generally cannot make an assessment for a deficiency until the window to challenge the deficiency has passed, or, if the taxpayer has petitioned the Tax Court, until the court's decision becomes final. *See* 26 U.S.C. § 6215 and § 7345.

First, Mr. Maehr may be eligible for various collections options, such as a payment plan (with very low payments, if proven appropriate) or an "offer in compromise." An offer in compromise is tax-speak for an administrative process that takes a taxpayer's individual financial situation into account.[6] In appropriate circumstances, an offer in compromise may allow an indigent taxpayer to defer payment and/or settle tax debts on appropriate terms.

Second, even if he could show that the IRS's collections activities were causing him substantial hardship, "[t]axes are the life-blood of government, and their prompt and certain availability an imperious need." *Bull v. United States*, 295 U.S. 247, 259, (1935). Courts have repeatedly found that the risk of financial harm does not justify injunctive relief in the tax context. *See*, *e.g.*, *Andrews v. United States*, 2010 U.S. Dist. LEXIS 74660, at *19 (D. Colo. Mar. 8, 2010) ("mere monetary harm or financial hardship is not sufficient to establish irreparable injury"); *Brasfield,* 2002 U.S. Dist. LEXIS 12786, at *8-9 ("[A]llegations of financial difficulties stemming from the levy [] are not a basis for equity jurisdiction when the levy was created to collect a tax deficiency."). Mr. Maehr may sincerely feel that the IRS's collections activities are distressing and burdensome. But that does not mean he can pursue a case that would violate two federal statutes.

D. Mr. Maehr's Other Allegations Do Not Support Relief.

Mr. Maehr also makes a string of assertions to the effect that that government deprived him of due process under the Fifth and Fourteenth amendments; violated the Taxpayer Bill of Rights; violated unspecified "IRS 'Mission' parameters; and failed to give him "any type of

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[6] *See* https://www.irs.gov/taxtopics/tc204 (discussing the "OIC" process, and how a taxpayer's reasonable ability to pay factors in); *see also* 26 U.S.C. § 7122(a)

administrative hearing on anything" (wholly ignoring his Tax Court petition). (Dkt. 70 at 3 ¶ 17 and 6 ¶¶ 21-22). Nothing from this grab-bag of supposed wrongs amounts to a cognizable claim, even if the Court had jurisdiction to hear it.

Mr. Maehr does not explain what he means by "IRS 'Mission' parameters", or which "parameters" he thinks were violated. Similarly, he does not show how the IRS violated the Taxpayers' Bill of Rights, a summary recitation of rights found in various sections of the Internal Revenue Code. *See* 26 U.S.C. § 7803(a)(3) (listing, the "right to finality" and "the right to confidentiality"). Nor has he not shown that this Bill of Rights provides an independent cause of action. *Cf Facebook, Inc. & Subs. v. IRS*, 2018 U.S. Dist. LEXIS 81986, at *40 (N.D. Cal. May 14, 2018) ("The logical reading of the TBOR is not that it created some new, wholly nebulous rights, but that it created no new rights at all … Congress meant what it said when it said that the TBOR rights were rights 'afforded by other provisions of this title[.]'").

Finally, to the extent Mr. Maehr wants to makes a due process claim, that fails too. He cannot say how, exactly, his right to due process was violated. For the sake of completeness, the United States assumes he means he did not get a fair hearing. As discussed above, this Court does not have the authority to review the Tax Court's decisions. Mr. Maehr does not point to any statute or regulation that entitles him to challenge his underlying debts years after they have already been adjudicated in the Tax Court. That is because none does: Mr. Maehr fails to state a cognizable claim for relief. As a result, this case should also be dismissed under Fed. R. Civ. P. 12(b)(6).

III. CONCLUSION

In the end, the new pleading is little more than an attempt to further Mr. Maehr's long campaign to thwart the IRS. The Court should dismiss the suit.

DATED: May 31, 2019

Respectfully submitted,

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CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED that service of the foregoing is made this 31st day of May, 2019, as follows, in addition to filing via ECF:

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Plaintiff

/s/ E. Carmen Ramirez
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