

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 25-1271

September Term, 2026

USTC-5488-23W

Filed On: October 30, 2026

Duane Morley Cox,

Appellant

v.

Commissioner of Internal Revenue,

Appellee

ON APPEAL FROM THE UNITED STATES TAX COURT

BEFORE: Pillard, Wilkins, and Garcia, Circuit Judges

J U D G M E N T

This appeal was considered on the record from the United States Tax Court and on the briefs filed by the parties and the supplements to appellant's reply brief. See Fed. R. App. P. 34(a)(2); D.C. Cir. Rule 34(j). Upon consideration of the foregoing and the motion for default judgment and supplement thereto, it is

ORDERED that the motion for default judgment be denied. Appellant has not shown he is entitled to the requested relief. It is

FURTHER ORDERED AND ADJUDGED that the Tax Court's orders filed June 18, 2025, and October 20, 2025, be affirmed. Appellant has shown no error in the Tax Court's conclusions that (1) the proceeds in dispute did not exceed \$2 million, and (2) the administrative record does not support a conclusion that the Internal Revenue Service ("IRS") proceeded in an action against a taxpayer based on information supplied by appellant. See 26 U.S.C. § 7623(b)(1), (5); Lissack v. Comm'r of Internal Revenue, 125 F.4th 245, 257 (D.C. Cir. 2025) ("[A]n administrative action 'proceeds based on' a whistleblower's information when that information has substantially contributed to the IRS's administrative action and its ultimate recovery."). Appellant argues that the IRS should have considered his allegations about criminal activity and about tax years other than the ones for which the IRS opened an investigation. However, the Tax Court is not authorized to direct the IRS to proceed with an action or to collect more proceeds. Cohen v. Comm'r of Internal Revenue, 550 F. App'x 10, 11 (D.C. Cir. 2014) (per curiam); Luu v. Comm'r of Internal Revenue, No. 23-1149, 2024

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WL 959876, at *1 (D.C. Cir. Mar. 6, 2024) (per curiam). And appellant has not shown that his drug-related criminal allegations were relevant to the action against the target taxpayers, which was based on inventory issues. Additionally, appellant has not pointed to evidence casting doubt on the examiner's explanation that the IRS's action was based on its receipt and independent assessment of the target corporation's amended tax returns, rather than any information appellant provided about inventory issues.

Appellant also has not shown that the Tax Court abused its discretion in denying his motions seeking discovery and supplementation of the record. See Shands v. Comm'r of Internal Revenue, 111 F.4th 1, 9-10 (D.C. Cir. 2024) (Tax Court's denial of discovery motions is reviewed for abuse of discretion), cert. denied, 145 S. Ct. 1178 (2025); Est. of Insinga by Gilmore v. Comm'r of Internal Revenue, 149 F.4th 709, 718 (D.C. Cir. 2025) (same, for denial of motion to supplement record). Because the Tax Court did not abuse its discretion in rejecting appellant's arguments about extra-record evidence, appellant has not shown any error in the denial of his motion to remand for the Whistleblower Office to reconsider his claim in light of such evidence. Finally, appellant has not shown that the Tax Court abused its discretion in denying reconsideration. See Ark Initiative v. Tidwell, 749 F.3d 1071, 1075 (D.C. Cir. 2014) (denial of reconsideration motion is typically reviewed for abuse of discretion); see also 26 U.S.C. § 7482(a)(1) (courts of appeals review Tax Court decisions "in the same manner and to the same extent as decisions of the district courts in civil actions tried without a jury").

Pursuant to D.C. Circuit Rule 36, this disposition will not be published. The Clerk is directed to withhold issuance of the mandate herein until seven days after resolution of any timely petition for rehearing or petition for rehearing en banc. See Fed. R. App. P. 41(b); D.C. Cir. Rule 41.

Per Curiam