IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
CHARLOTTESVILLE DIVISION

THEODORE B. GOULD *Plaintiff,* v. UNITED STATES OF AMERICA, *et al.*, *Defendants.*	CIVIL ACTION NO. 3:06-CV-00008 OPINION AND ORDER JUDGE NORMAN K. MOON

This matter is before the Court on the Defendant's June 8, 2007 Motion to Dismiss. For the reasons given below, the motion is GRANTED.

I. BACKGROUND

Theodore Gould seeks to hold numerous employees of the Internal Revenue Service ("IRS") liable for fraud and conspiracy, alleging that they have intentionally misconstrued a Supreme Court ruling, the Internal Revenue Code, and federal regulations concerning the collection of taxes.

There have been numerous suits and decisions concerning the tax consequences of the bankruptcy of the Hollywell Corporation, in which Plaintiff was sole shareholder. After the bankruptcy estate was closed, the proceeds were placed in a liquidating trust, whose purpose was to sell off the illiquid assets and distribute the proceeds to creditors. There was considerable controversy over whether the trustee was required to file tax returns and pay the taxes on the income accruing to the trust assets. The Supreme Court decided that the trustee was required to

file a return and pay the taxes. *Hollywell Corp. et al. v. Smith*, 503 U.S. 47 (1992). Since that time, Plaintiff has filed Form 1040's claiming enormous refunds based on the trustee's payment of taxes in compliance with *Hollywell*. These refunds have been repeatedly rejected, leading to several suits against the IRS.

I initially dismissed this latest action because it appeared on the face of the original 110-page complaint that Plaintiff sought to relitigate tax claims from 1992-93 which had been the subject of prior post-*Hollywell* litigation. Plaintiff moved for reconsideration on the grounds that this suit involved the years 1997-98, which had not been addressed in prior cases. In an abundance of caution, I permitted Plaintiff to file an amended complaint, limited to 20 pages, which was to include:

> 1) the amount of money Plaintiff seeks, 2) the legal justification for that award (e.g., tax refund, compensatory or punitive damages, etc.), 3) whether or not Plaintiff challenges the *assessment* of taxes or concedes that taxes paid by the Trustee for 1997-98 were in fact owed to the IRS by *somebody*, 4) if the assessment is challenged, the grounds therefor and a proposed alternative assessment, and 5) some allegation or explanation of the effect of Plaintiff's proposed tax changes on the rights of creditors who were entitled to distributions from the Miami Center Liquidating Trust.

Order, April 12, 2007 (docket # 42). Plaintiff's Amended Complaint was filed on May 11, 2007 (docket # 45).

The Amended Complaint says that Plaintiff does not challenge the assessment of taxes. (Am. Comp. ¶ 5-6, identifying Plaintiff as "taxpayer"; Pl. Mot. Sum. J. at 21-22, docket # 49). However, he argues that the "Responsible Person" doctrine makes the trustee personally liable for these taxes and requires him to pay them from his own pocket. (Am. Comp. ¶ 15-16). Plaintiff argues, in essence, that this doctrine requires that the tax liability be shifted entirely from his account to that of the trustee, personally, thus rendering Plaintiff's liability almost zero while imposing a large tax bill on the trustee. Plaintiff also argues that any tax payment which is