

Beard v. Commissioner of Internal Revenue, **793 F.2d 139** (6th Cir. 06/24/1986)

[1] UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

[2] No. 84-1698

[3] 1986.C06.41132 <<http://www.versuslaw.com>>; **793 F.2d 139**

[4] decided: June 24, 1986.

[5] **ROBERT D. BEARD, PETITIONER-APPELLANT,**  
v.  
**COMMISSIONER OF INTERNAL REVENUE, RESPONDENT-APPELLEE**

[6] ON APPEAL from the United States Tax Court

[7] Attorneys for Appellant Robert D. Beard (Pro Se.), 11150 Telegraph Road, Lot 30, Hudson, Carleton, Michigan 48117

[8] Attorneys for Appellee Fred T. Goldberg, Jr., Chief Counsel Internal Revenue Service, Washington, D.C. 20224; Glenn L. Archer, Jr., (Lead counsel), Michael L. Paup, Tax Division, Department of Justice, Washington D.C. 20530

[9] Before KEITH and NELSON, Circuit Judges; and EDWARDS, Senior Circuit Judge

[10] Per Curiam.

[11] Petitioner Robert Beard appeals a United States Tax Court order and decision granting respondent's motion for summary judgment and assessing petitioner with additional tax and damages. Petitioner filed a petition in the Tax Court challenging a notice of deficiency issued by the respondent, Commissioner of Internal Revenue. The court concluded that no issues of material fact precluded granting respondent's motion for summary judgment. The court determined that the wages earned by petitioner are taxable; the altered Treasury Form 1040 filed by petitioner did not constitute a return under 26 U.S.C. § 6011 (1982); and that petitioner therefore owed additional tax for willfully filing a late return in violation of 26 U.S.C. §§ 6651 (a)(1), 6653(a) (1982).

[12] Upon review of the record, we conclude no genuine issue of material fact precluded the Tax Court from granting summary judgment to respondent. In our view, petitioner's wages are taxable as gross income, see *Eisner v. Macomber*, 252 U.S. 189, 207, 64 L. Ed. 521, 40 S. Ct. 189, 3 A.F.T.R. (P-H) 3020 (1920), and petitioner's altered 1040 form does not constitute a "return" in compliance with 26 U.S.C. § 6011 (a) (1982). See *Counts v. Commissioner*, 774 F.2d 426, 427 (11th Cir. 1985) (per curiam).

[13] The decision of the Tax Court is hereby affirmed without sanctions against petitioner, based upon the Tax Court decision reported at 82 T.C. 766 (1984).

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