



## United States Tax Court

Washington, DC 20217

Western Semiconductor Corporation

Petitioner

v.

Commissioner of Internal Revenue

Respondent

Docket No. 11579-20L

### **ORDER OF DISMISSAL**

On September 4, 2020, petitioner filed the petition to commence this case. Petitioner seeks review of a notice of determination concerning collection, dated August 6, 2020, issued in connection with a notice of Federal tax lien (NFTL) filing with respect to petitioner's Form 941 taxes for the tax period ending December 2018. The notice of determination noted that, after the tax liability for the period at issue was fully paid, the NFTL had been withdrawn and the NFTL filing was not sustained.

On April 7, 2021, respondent filed a motion to dismiss on ground of mootness. Respondent asserts in his motion that: (1) the notice of determination upon which this case is based neither sustained the lien filing nor proposed further collection action by respondent; 2) prior to issuing the notice of determination, respondent withdrew the NFTL underlying this case; and, 3) there is no balance due from petitioner for the period and tax type at issue in this case.

On June 30, 2021, petitioner filed (1) an objection to motion to dismiss on ground of mootness, (2) a motion for summary judgment, and (3) a motion to rebuke. On September 20, 2021, petitioner filed a (1) first amended notice of objection to motion to dismiss on ground of mootness, (2) a second motion for summary judgment, and (3) a motion to compel. Thereafter, on September 29, 2021, petitioner filed a motion to withdraw motion to rebuke and a motion to withdraw motion to compel. Petitioner's opposition in this case to the notice of determination that was issued to him primarily arises from his disagreement with certain factual statements set forth in that notice of determination.

Once there is no unpaid liability for a disputed year (or period) upon which a collection action could be based, a collection review proceeding filed in this Court is moot. Greene-Thapedi v. Commissioner, 126 T.C. 1, 7 (2006). In Greene-Thapedi v. Commissioner, 126 T.C. 1 (2006), the taxpayer disputed a notice of determination sustaining a levy for her 1992 Federal income tax liability. After the filing of the petition, the Commissioner applied an overpayment from the 1999 taxable year to the 1992 tax liability, which resulted in full payment of the 1992 tax liability. Id. at 4. Consequently, the Commissioner asserted that the case was moot since he claimed there was no amount due and he was no longer pursuing a collection action. Id. at 6. Therefore, a case is moot if the liability that the Commissioner is attempting to collect has been paid in full so that no collection action is appropriate. Id.

While petitioner may be understandably concerned about what he views as factual inaccuracies in the notice of determination, it is apparent that there is no longer any tax liability owed for the tax period at issue in this case. Accordingly, because there is no unpaid liability for the tax period ending December 2018, this case is moot, and the Court shall grant respondent's motion to dismiss on ground of mootness.

Upon due consideration, it is

ORDERED that respondent's motion to dismiss on ground of mootness is granted and this case is dismissed. It is further

ORDERED that petitioner's motion to withdraw motion to rebuke and motion to withdraw motion to compel are granted. It is further

**Entered and Served 11/03/21**

ORDERED that petitioner's motion for summary judgment and second motion for summary judgment are denied as moot.

**(Signed) Maurice B. Foley**  
**Chief Judge**