

UNITED STATES TAX COURT

WASHINGTON, DC 20217

CHESTER E. & TRACEY J. DAVIS, ESA)
NW, INC., AND ENERGY HOLDING)
COMPANY, ET AL,)
)
Petitioners) Docket Nos. 4284-06L,
) 8903-06L,
v.) 8904-06L.
)
COMMISSIONER OF INTERNAL REVENUE,)
)
Respondent

O R D E R

On February 28, 2006, a petition was filed to commence this case. On April 6, 2006, an amended petition was filed. On April 21, 2006, respondent filed a Motion to Sever. Attached to respondent's motion is a copy of separate Notices of Determination Concerning Collection Action(s) Under Code Section 6320 and/or 6330 dated February 3, 2006, issued to Chester E. Davis, Esa NW, Inc, and Energy Holding Company. Petitioners filed an objection to respondent's motion on May 3, 2006.

A separate petition is ordinarily required to be filed with respect to each notice of liability issued to a taxpayer. See Rule 34(a), Tax Court Rules of Practice and Procedure. Upon review of the record at Docket No. 4284-06L the Court finds that petitioners improperly disputed separate notices of determination in one petition. Pursuant to Rules 61(b) and 62, the Court may order severance on such terms as are just whenever it appears there is a misjoinder of parties.

Upon due consideration, and for cause appearing of record, it is

ORDERED that respondent's motion to sever is granted and the claims pertaining to review of respondent's collection action as to petitioner Esa NW, Inc., and Energy Holding Company are severed from Docket No. 4284-06L and shall be addressed at Docket

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Nos. 8903-06L and 8904-06L, respectively. The caption at Docket No. 8903-06 L shall be "Esa NW, Inc., Petitioner v. Commissioner of Internal Revenue, Respondent" and the caption at Docket No. 8904-06L shall be "Energy Holding Company, Petitioner v. Commissioner of Internal Revenue, Respondent". It is further

ORDERED that the Clerk of the Court shall file a copy of the petition and amended petition previously filed at Docket No. 4284-06L as a petition and amended petition at Docket No. 8903-06L and shall file a copy of respondent's Motion to Sever and the objection thereto previously filed at Docket No. 4284-06L at Docket No. 8903-06L. All further communication regarding respondent's collection activity insofar as it relates to petitioner Esa NW, Inc.'s 2001 tax year should be directed to Docket No. 8903-06L. It is further

ORDERED that petitioner Esa NW, Inc., shall file a Second Amended Petition and pay the filing fee at Docket No. 8903-06L on or before June 6, 2006. It is further

ORDERED that the Clerk of the Court shall file a copy of the petition and amended petition previously filed at Docket No. 4284-06L as a petition and amended petition at Docket No. 8904-06L and shall file a copy of respondent's Motion to Sever and the objection thereto previously filed at Docket No. 4284-06L at Docket No. 8904-06L. All further communication regarding respondent's collection activity insofar as it relates to petitioner Energy Holding Company's 2001 tax year should be directed to Docket No. 8904-06L. It is further

ORDERED that petitioner Energy Holding Company shall file a Second Amended Petition and pay the filing fee at Docket No. 8904-06L on or before June 6, 2006. It is further

ORDERED that the Clerk of the Court shall attach to the copy of this Order served on the petitioners at Docket Nos. 8903-06L and 8904-06L a form for use in filing their respective second amended petitions. It is further

ORDERED that the designated place of trial in Docket Nos. 8903-06L and 8904-06L is Portland, Oregon. It is further

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ORDERED that the caption of the case at Docket No. 4284-06L is changed to read "Chester E. and Tracey J. Davis, Petitioners v. Commissioner of Internal Revenue, Respondent". It is further

ORDERED that references to respondent's collection activity for Esa NW, Inc.'s and Energy Holding Company's 2001 tax years are deemed stricken from the amended petition at Docket No. 4284-06L insofar as petitioners seek review of respondent's collection activity as to Esa NW, Inc.'s and Energy Holding Company's 2001 tax year. It is further

ORDERED that at Docket No. 4284-06L respondent shall move with respect to the Amended Petition on or before June 30, 2006, or file an Answer on or before July 17, 2006.

(Signed) Joel Gerber

Joel Gerber
Chief Judge

Dated: Washington, D.C.
May 16, 2006