

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 16-15851
Non-Argument Calendar

Agency No. 030014-15 L

CHRISTOPHER CHAPMAN,

Petitioner-Appellant,

versus

COMMISSIONER OF INTERNAL REVENUE,

Respondent-Appellee.

No. 16-15852
Non-Argument Calendar

Agency No. 030031-15 L

PAMELA J. CHAPMAN,

Petitioner-Appellant,

versus

COMMISSIONER OF INTERNAL REVENUE,

Respondent-Appellee.

Appeals for Review of a Decision of the
U.S. Tax Court

(October 27, 2017)

Before HULL, JULIE CARNES and FAY, Circuit Judges.

PER CURIAM:

Christopher and Pamela J. Chapman (collectively, “the Chapmans”), proceeding pro se, appeal the Tax Court’s grants of summary judgment in favor of the Commissioner of Internal Revenue on their petitions for review of determinations from the Internal Revenue Service (“IRS”) Office of Appeals. We affirm.

I. BACKGROUND

The IRS issued the Chapmans, husband and wife taxpayers, notices of intent to levy and notices of federal tax lien for the years 1999 to 2004. The notices informed the Chapmans of their right to collection-due-process (“CDP”) hearings regarding the proposed collection actions. The Chapmans submitted CDP-hearing requests, arguing that the notices of intent to levy were based on computer calculations that the Government Accountability Office (“GAO”) repeatedly had

determined to be unreliable. The IRS Office of Appeals rejected the Chapmans' requests because they had raised arguments deemed to be frivolous.

The Chapmans filed petitions with the Tax Court to dispute the Office of Appeals' determinations. They argued that the letters denying their requests for hearings were insufficient because they had failed to explain why the IRS believed their arguments were frivolous. The Commissioner moved for summary judgment against the Chapmans, contending that the Chapmans' arguments sought only to delay or impede the administration of their taxes and were therefore barred. The Commissioner argued there were no genuine issues of material fact because the Chapmans' general attacks on the reliability of the IRS's system of calculating tax liability, rather than specific allegations of error in their tax assessments, were not reviewable.

In response, the Chapmans argued that the IRS's letter denying their CDP-hearing requests failed to explain why their arguments were frivolous. They argued that the Office of Appeals officers assigned to their cases had not asserted that the IRS's computer calculations were accurate and that the IRS had failed to provide any documentation supporting the accuracy of its computer programs generally or of the calculations made in their cases. They also reiterated their assertion that the GAO repeatedly had questioned the reliability of the IRS's records.

The Tax Court granted the Commissioner's motions for summary judgment, noting that the Chapmans had not challenged any specific aspect of their tax assessments. The court also noted that the Chapmans had only challenged the amount or existence of their tax liabilities but that such challenges were not proper in their administrative or tax-court proceedings. The Tax Court denied the Chapmans' motions for reconsideration.

On appeal, the Chapmans raise four arguments, all of which they concede were not raised before the Tax Court or the Office of Appeals. First, the Chapmans argue that their notices of deficiency were invalid because federal-income taxes are only applied to U.S. citizens by regulation, rather than an act of Congress, in violation of the Sixteenth Amendment. Second, they argue that the IRS violated 26 U.S.C. § 83(a) by taxing them on their wages without allowing them to adjust their gross income by deducting the fair-market value of their labor. Third, they argue that 26 U.S.C. § 1, which imposes the federal-income tax, is void for vagueness because the tax code is unclear and misleading as to individuals' tax liabilities. Finally, they argue that their notices of deficiency were invalid because the IRS could sanction them for failing to pay the deficiencies by revoking their passports without allowing them to challenge provisions of the tax code without being financially sanctioned.

II. DISCUSSION

We review de novo the Tax Court's grant of summary judgment. *Roberts v. Comm'r*, 329 F.3d 1224, 1227 (11th Cir. 2003). Issues not raised before the Tax Court are not properly before us on appeal. *Stubbs v. Comm'r*, 797 F.2d 936, 938 (11th Cir. 1986). However, we may consider an issue not raised in a lower court if: (1) the issue involves a pure question of law and refusal to consider it would result in a miscarriage of justice; (2) the party had no opportunity to raise the issue previously; (3) the interest of substantial justice is at stake; (4) the proper resolution is beyond any doubt; or (5) the issue presents significant questions of general impact or of great public concern. *Access Now, Inc. v. Sw. Airlines Co.*, 385 F.3d 1324, 1332 (11th Cir. 2004).

The Chapmans concede that “[t]his appeal does not concern the issues presented in Tax Court, but rather raises only new issues.” Appellants’ Br. 2. Before the Tax Court, the Chapmans had argued that their notices of deficiency were unenforceable because the IRS’s calculations were unreliable.¹ Here, however, the Chapmans raise four arguments that were not raised before the Tax Court or the Office of Appeals. Additionally, the Chapmans have not shown why it would be a miscarriage of justice to decline to address their claims or why they

¹ By failing to raise this argument on appeal, the Chapmans have abandoned it. See *Timson v. Sampson*, 518 F.3d 870, 874 (11th Cir. 2008) (“[I]ssues not briefed on appeal by a *pro se* litigant are deemed abandoned.”).

could not have raised these arguments before the Tax Court and appealed any resulting sanctions order along with the merits of their claims.² *See Access Now, Inc.*, 385 F.3d at 1332. We therefore decline to address their arguments for the first time on appeal. *See Stubbs*, 797 F.2d at 938. Accordingly, the Chapmans have not properly raised any argument that the Tax Court's grants of summary judgment in favor of the Commissioner were erroneous.

AFFIRMED.

² The IRS may impose penalties on any person who submits an argument that previously has been deemed frivolous or reflects a desire to delay or impede tax collection. 26 U.S.C. § 6702(b). We review the Tax Court's imposition of sanctions for an abuse of discretion. *See Roberts*, 329 F.3d at 1229.