

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION**

JAMES L. MCDANIEL

PLAINTIFF

v.

Case No. 4:09-cv-00943 BSM

TIMOTHY GEITHNER

DEFENDANT

ORDER

Defendant Timothy Geithner's motion to dismiss (Doc. No. 4) is granted.

In support of his motion to dismiss, defendant argues that suits to restrain the government from assessing taxes are barred by 26 U.S.C. § 7421(a), and that suits seeking judicial review of defendant and IRS employees are also barred by § 7421(a). Defendant maintains that the United States is the proper defendant and the suit is thus barred by sovereign immunity. Defendant also argues that plaintiff James L. McDaniel lacks standing to seek relief for his wife, Debi McDaniel, who is not a named party. Lastly, defendant argues that McDaniel has not properly served process.

The complaint is dismissed because this court lacks subject matter jurisdiction. The Anti-Injunction Act, 26 U.S.C. § 7421(a), prohibits a federal court from entertaining an action to restrain the government's ability to assess or collect taxes. *O'Hagan v. United States*, 86 F.3d 776, 778 (8th Cir. 1996). Consequently, this court is restrained from hearing McDaniel's complaint. In that jurisdiction is lacking, the remaining reasons for dismissal are not addressed.

Accordingly, Geithner's motion to dismiss (Doc. No. 4) is granted, and McDaniel's complaint is dismissed with prejudice.

IT IS SO ORDERED this 4th day of March, 2010.


UNITED STATES DISTRICT JUDGE