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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,  
Plaintiff,  
v.  
RUTHIE E. HARTZ,  
Defendant.

No. 2:14-cv-0112 WBS CKD PS

FINDINGS AND RECOMMENDATIONS

Presently before the court is plaintiff's motion for default judgment. This matter is submitted without oral argument. The undersigned has fully considered the briefs and record in this case and, for the reasons stated below, will recommend that plaintiff's motion for default judgment be granted.

The Internal Revenue Service ("IRS") has made assessments against defendant Ruthie E. Hartz for the 1998 tax year. The United States commenced the instant action to reduce to judgment the unpaid balance of the assessed amount, plus statutory interest and other additions accruing to the date of payment.

The record reflects that defendant Ruthie E. Hartz was properly served with process by substituted service on February 5, 2014. ECF No. 4. Defendant filed a document on March 10, 2014, which was non-responsive to the complaint. By order filed March 14, 2014, defendant was ordered to file a responsive pleading no later than March 27, 2014 and cautioned that failure to

1 file a responsive pleading may result in a recommendation that default judgment be entered  
2 against defendant. Defendant failed to timely file a responsive pleading and on April 4, 2014,  
3 default was entered against defendant. ECF No. 17. Plaintiff thereafter filed a motion for default  
4 judgment with a proof of service reflecting service of the motion on defendant. Plaintiff seeks an  
5 entry of default judgment in the amount of \$44,564.72 together with interest from the date of  
6 April 8, 2014, in accordance with 28 U.S.C. § 1961(c)(1) and 26 U.S.C. §§ 6601, 6621, and 6622  
7 until the liabilities are fully paid.

8 Entry of default effects an admission of all well-pleaded allegations of the complaint by  
9 the defaulted party. Geddes v. United Financial Group, 559 F.2d 557 (9th Cir. 1977). The court  
10 finds the well pleaded allegations of the complaint state a claim for which relief can be granted.  
11 Anderson v. Air West, 542 F.2d 1090, 1093 (9th Cir. 1976). The memorandum of points and  
12 authorities and affidavits filed in support of the motion for entry of default judgment also support  
13 the finding that plaintiff is entitled to the relief requested in the prayer for default judgment,  
14 which does not differ in kind from the relief requested in the complaint. Henry v. Sneiders, 490  
15 F.2d 315, 317 (9th Cir.), cert. denied, 419 U.S. 832 (1974). Plaintiff has established a prima facie  
16 case by submitting the declaration of Steven Kemp with supporting documents, including Forms  
17 4340 (Certificates of Assessments and Payments), a copy of the Notice of Deficiency sent to  
18 defendant, and the IRS Examination workpapers. Plaintiff has also submitted the declaration of  
19 Alan Pobre with supporting documents, which establish the amount of tax, penalties and accrued  
20 interest. There are no policy considerations which preclude the entry of default judgment of the  
21 type requested. See Eitel v. McCool, 782 F.2d 1470, 1471-1472 (9th Cir. 1986) (factors that may  
22 be considered by the court are possibility of prejudice to the plaintiff, merits of plaintiff's  
23 substantive claim, sufficiency of the complaint, sum of money at stake in the action; possibility of  
24 a dispute concerning material facts; whether the default was due to excusable neglect, and strong  
25 policy underlying the Federal Rules of Civil Procedure favoring decisions on the merits).

26 Accordingly, IT IS HEREBY RECOMMENDED that:


27 1. Plaintiff's motion for default judgment (ECF No. 19) against defendant Ruthie E. Hartz  
28 be granted;

1           2. Default judgment be entered in favor of the United States and against Ruthie E. Hartz  
2 in the amount of \$44,564.72 together with interest from the date of April 8, 2014, in accordance  
3 with 28 U.S.C. § 1961(c)(1) and 26 U.S.C. §§ 6601, 6621, and 6622 until the liabilities are fully  
4 paid.

5           3. The Clerk of Court be directed to close this case.

6           These findings and recommendations are submitted to the United States District Judge  
7 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days  
8 after being served with these findings and recommendations, any party may file written  
9 objections with the court and serve a copy on all parties. Such a document should be captioned  
10 “Objections to Magistrate Judge’s Findings and Recommendations.” Failure to file objections  
11 within the specified time may waive the right to appeal the District Court’s order. Martinez v.  
12 Ylst, 951 F.2d 1153 (9th Cir. 1991).

13 Dated: April 11, 2014

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16 CAROLYN K. DELANEY  
17 UNITED STATES MAGISTRATE JUDGE

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