

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Honorable Marcia S. Krieger

Civil Action No. 07-cv-00978-MSK-KMT

UNITED STATES OF AMERICA,

Plaintiff,

v.

DENNIS WAGNER,
CAROL WAGNER,
KEY BANK, and
COLORADO DEPARTMENT OF REVENUE,

Defendants.

ORDER GRANTING MOTION TO AMEND JUDGMENT

THIS MATTER comes before the Court upon Plaintiff United States of America's ("Government") Motion to Amend Judgment (**#54**). No response has been submitted.

Pursuant to Fed. R. Civ. P. 60(a), the Governments seeks amendment of the Court's judgment (**#48**) entered June 3, 2008. Specifically, the Government requests the Court to change the existing provision, "Interest on this sum shall accrue pursuant to 28 U.S.C. § 1961 until paid.," to "Interest on this sum shall accrue pursuant to 28 U.S.C. § 1961(c)(1) and 26 U.S.C. § 6621, from May 15, 2008 until paid in full." The Government seeks amendment because 28 U.S.C. § 1961(c)(1) specifies that interest on judgments in internal revenue tax cases is governed by 26 U.S.C. § 6621, and May 15, 2008 is the date on which interest should begin to accrue.

28 U.S.C. § 1961(c)(1) provides:

This section shall not apply in any judgment of any court with respect to any internal revenue tax case. Interest shall be allowed in such cases at

the underpayment rate or overpayment rate (whichever is appropriate) established under section 6621 of the Internal Revenue Code of 1986.

The Court may correct a clerical mistake or a mistake arising from oversight or omission whenever one is found in a judgment. Fed. R. Civ. P. 60(a). Technically, the original judgment is correct. Its reference to 28 U.S.C. § 1961 includes sub-part (c)(1) which applies to internal revenue tax cases; it, in turn, refers to 26 U.S.C. § 6621. Although the judgment did not specify a date from which interest occurred, the opinion and order underlying it (#46) directed the Government to submit an updated statement of the outstanding taxes, penalties and interest owed by Mr. Wagner as of May 15, 2008. Thus, interest on the subsequently entered judgment necessarily accrued from and after such date.

Although perhaps not necessary, the requested modification is consistent with the intent of the judgment and would make it easier for someone reading the judgment, only, to engage in appropriate calculations.

IT IS THEREFORE ORDERED that the Government's Motion to Amend Judgment (#54) is **GRANTED**.

Dated this 30th day of March, 2009

BY THE COURT:

A handwritten signature in black ink that reads "Marcia S. Krieger". The signature is written in a cursive style with a dot over the 'i' in "Krieger".

Marcia S. Krieger
United States District Judge