

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

DAVID G. FROHNAPLE,)	
)	
Plaintiff,)	
)	
v.)	1:08cv387
)	
UNITED STATES OF AMERICA,)	
)	
Defendant.)	

ORDER

On March 8, 2010, in accordance with 28 U.S.C. § 636(b), the United States Magistrate Judge filed a Memorandum Opinion and Recommendation ("Recommendation"). (Doc. 37.) Plaintiff David G. Frohnapple ("Frohnapple") timely filed an objection (Doc. 50) and memorandum in support (Doc. 51). On April 8, 2010, Defendant United States filed a response to the objection. (Doc. 52.)

The court has reviewed those portions of the Recommendation to which objection was made and has made a de novo determination, which is in accord with the Magistrate Judge's Recommendation. Accordingly, the court hereby adopts the Magistrate Judge's Recommendation.

IT IS THEREFORE ORDERED that Frohnapple's Motion for Summary Judgment (Doc. 19) be DENIED and that the United States' Motion for Summary Judgment (Doc. 21) be GRANTED.

As noted by the Magistrate Judge, the United States has offered different figures as to the amount of Frohnaple's tax liability, without any explanation of how they were determined.

IT IS THEREFORE FURTHER ORDERED that the United States file a brief not to exceed five (5) pages by 5 p.m. on July 9, 2010, setting forth the exact amount of tax liability owed by Frohnaple, as well as evidentiary support or a citation within the current record to such evidentiary support. This briefing should include the amount due, how that amount was calculated (including principal and interest), and the appropriate rate of any prejudgment interest. Frohnaple may respond within seven (7) days of the filing of the United States' brief.

A judgment consistent with this order will be filed after the amount of liability is determined.

/s/ Thomas D. Schroeder
United States District Judge

July 2, 2010