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7 UNITED STATES DISTRICT COURT  
8 WESTERN DISTRICT OF WASHINGTON  
9 AT SEATTLE

10 ERIN-MAUREEN LAFFERTY,

CASE NO. C17-0513JLR

11 Plaintiff,

ORDER

12 v.

13 SHELLEY SMITH, et al.,

14 Defendants.

15 **I. INTRODUCTION**

16 Before the court are two motions: Plaintiff Erin-Maureen Lafferty’s motion for  
17 default judgment (DJ Mot. (Dkt. # 3)); and Defendants Shelley Smith, Jan Spicer, and  
18 John Koskinen’s (collectively, “the Government”)<sup>1</sup> motion to dismiss Ms. Lafferty’s

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21 <sup>1</sup> Ms. Lafferty, who is proceeding *pro se*, sues Ms. Smith, Ms. Spicer, and Mr. Koskinen  
22 in their official capacities as officers of the Internal Revenue Service (“IRS”). (*See Am. Compl.*  
*(Dkt. # 2)* at 1-2.) “[A] suit against IRS employees in their official capacity is essentially a suit  
against the United States.” *Gilbert v. DaGrossa*, 756 F.2d 1455, 1458 (9th Cir. 1985).  
Accordingly, the court refers to all three defendants as “the Government.”

1 amended complaint (MTD (Dkt. # 4)). The Government opposes Ms. Lafferty’s motion  
2 (Resp. to DJ Mot. (Dkt. # 5)), whereas Ms. Lafferty failed to respond to the  
3 Government’s motion (*see* Dkt.). The court has considered the parties’ briefing on the  
4 motions, the relevant portions of the record, and the applicable law. Considering itself  
5 fully advised,<sup>2</sup> the court DENIES as moot Ms. Lafferty’s motion for default judgment,  
6 GRANTS the Government’s motion to dismiss, and DISMISSES this case with  
7 prejudice.

## 8 II. BACKGROUND

9 Ms. Lafferty, who is proceeding *pro se*, challenges the validity of the IRS’s  
10 collection of income taxes and a related tax lien. (*See* Am. Compl. at 4.) Although her  
11 filings are opaque, she appears to contend that the IRS’s tax collection efforts violate a  
12 variety of federal statutes. (*See id.* at 2.) She therefore asks the court to determine  
13 whether “the IRS is in Final Administrative Default, and has lost its standing to maintain  
14 any semblance of a valid or verified claim” to her property. (*Id.*; *see also id.* at 4 (“IRS  
15 now appears to be unlawfully coercing conversion of Plaintiff’s equity based on inchoate  
16 Notices of Federal Tax liens and levies.”).) To her complaint, Ms. Lafferty attaches “[a]  
17 small portion of over a decade’s worth of paperwork.” (*Id.* at 2; *see also id.* at 5-30.)

18 On June 1, 2017, having never had default entered against any defendant, Ms.  
19 Lafferty moved for default judgment on the basis that the Government had not yet filed a

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21 <sup>2</sup> Neither Ms. Lafferty nor the Government requested oral argument on either motion, and  
22 the court concludes oral argument would not aid in its disposition of the motions. *See* Local  
Rules W.D. Wash. LCR 7(b)(4).

1 pleading responsive to her amended complaint. (DJ Mot.) On June 5, 2017, the  
2 Government opposed Ms. Lafferty’s motion (Resp. to DJ Mot.) and moved to dismiss her  
3 case (MTD). The motions are now before the court.

### 4 III. ANALYSIS

5 The Government argues—and Ms. Lafferty fails to refute—that the court lacks  
6 jurisdiction over Ms. Lafferty’s claims. (See MTD at 1-10.) The court agrees. See 26  
7 U.S.C. § 7421(a); 28 U.S.C. § 2201(a). Subject to certain exceptions not applicable here,  
8 the Internal Revenue Code prohibits suits “for the purpose of restraining the assessment  
9 or collection of any tax.” 26 U.S.C. § 7421(a); see also *Elias v. Connett*, 908 F.2d 521,  
10 523 (9th Cir. 1990) (citing *Bob Jones Univ. v. Simon*, 416 U.S. 725, 736-37 (1974))  
11 (confirming that Section 7421(a) divests the court of jurisdiction). Such suits cannot “be  
12 maintained in any court by any person.” 26 U.S.C. § 7421(a). Furthermore, the  
13 Declaratory Judgment Act specifically divests the court of jurisdiction to afford Ms.  
14 Lafferty any declaratory relief. 28 U.S.C. § 2201(a); *Hughes v. United States*, 953 F.2d  
15 531, 536-37 (9th Cir. 1992). Ms. Lafferty’s amended complaint challenges the  
16 assessment and collection of a tax and seeks declaratory relief. (See Am. Compl. at 2-4.)  
17 Therefore, 26 U.S.C. § 7421(a) and 28 U.S.C. § 2201(a) divest the court of jurisdiction  
18 over her claim. The court accordingly dismisses Ms. Lafferty’s amended complaint.

19 Courts must not dismiss a *pro se* complaint without leave to amend unless “it is  
20 absolutely clear that the deficiencies of the complaint could not be cured by amendment.”  
21 *Akhtar v. Mesa*, 698 F.3d 1202, 1212 (9th Cir. 2012) (quoting *Schucker v. Rockwood*,  
22 846 F.2d 1202, 1203 (9th Cir. 1988)). Here, Ms. Lafferty’s complaint, amended

1 complaint, and related filings demonstrate that her claims are based on an irredeemably  
2 flawed legal theory. Unequivocal precedent makes it absolutely clear that amendment  
3 would be futile. *See Akhtar*, 698 F.3d at 1212; *Eminence Capital, LLC v. Aspeon, Inc.*,  
4 316 F.3d 1048, 1052 (9th Cir. 2003); *see also Balistreri v. Pacifica Police Dep't*, 901  
5 F.2d 696, 699 (9th Cir. 1988). The court therefore denies Ms. Lafferty leave to amend  
6 her complaint. Because Ms. Lafferty's claims are barred "in any court," 26 U.S.C.  
7 § 7421(a), the court dismisses her claims with prejudice, *see Hovgaard v. I.R.S.*,  
8 No. C-97-3054 VRW, 1997 WL 811764, at \*1 (N.D. Cal. Dec. 22, 1997) ("No matter  
9 how meritorious [the plaintiff]'s claim may be, the court therefore lacks the authority to  
10 hear it, and this case must be dismissed with prejudice."); *cf. Altman v. Fuller*, 680  
11 F. Supp. 1435, 1436 (D. Haw. 1987) (dismissing without prejudice where the plaintiff  
12 had a plausible opportunity to properly refile the suit following the completion of a  
13 separate tax lawsuit).<sup>3</sup>

#### 14 IV. CONCLUSION

15 Based on the foregoing analysis, the court DENIES as moot Ms. Lafferty's motion  
16 for default judgment (Dkt. # 3), GRANTS the Government's motion to dismiss (Dkt.

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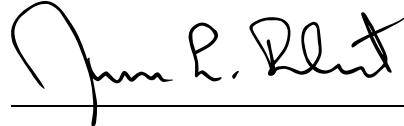
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22 <sup>3</sup> Because the court dismisses this case with prejudice, it DENIES Ms. Lafferty's motion  
for default judgment as moot. (*See* DJ Mot.)

1 # 4), and DISMISSES the amended complaint with prejudice.

2 Dated this 25th day of July, 2017.

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JAMES L. ROBART  
United States District Judge

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