

UNITED STATES TAX COURT  
WASHINGTON, DC 20217

JOHN M. CRIM,	)	
	)	
Petitioner,	)	
	)	
v.	)	Docket No. 1638-15.
	)	
COMMISSIONER OF INTERNAL REVENUE,	)	
	)	
Respondent	)	
	)	
	)	
	)	
	)	
	)	

**ORDER**

Pending in the above-docketed case is petitioner’s Motion for Recusal of Judge, filed February 24, 2015.

In his motion for recusal, petitioner asserts that the President’s authority under section 7443(f) to remove Tax Court judges violates the Constitution’s separation of powers because Tax Court judges operate independently from the executive branch within an Article I court that exercises judicial power.<sup>1</sup> Petitioner argues that we should declare section 7443(f) unconstitutional and recuse ourselves from consideration of this case until the alleged constitutional infirmity of section 7443(f) is cured.

Section 7443(f) authorizes the President to remove judges of the Tax Court “after notice and opportunity for public hearing, for inefficiency, neglect of duty, or malfeasance in office, but for no other cause.” Petitioner contends that this section violates basic principles of separation of powers. However, in a recent Opinion of this Court, we held that presidential authority to remove Tax Court judges for cause under section 7443(f) does not violate the Constitution’s separation of powers and that we need not recuse ourselves. Battat v. Commissioner,<sup>2</sup> 148 T.C. No. 2 (Feb. 2, 2017); accord Kuretski v. Commissioner, 755 F.3d 929 (D.C. Cir. 2014), aff’g T.C. Memo. 2012-262, cert. denied, 135 S. Ct. 2309 (2015); see also Thompson v. Commissioner, 148 T.C. No. 3 (slip op. at 4-5) (Feb. 2, 2017), on appeal (9<sup>th</sup> Cir., Mar. 28, 2017).

<sup>1</sup> All section references are to the Internal Revenue Code in effect at all relevant times.

<sup>2</sup> On appeal (11<sup>th</sup> Cir., Apr. 10, 2017).

Petitioner does not advance in his motion for recusal any argument that was not addressed in Battat. Thus, we need not discuss petitioner's motion further. In short, we decline to declare section 7443(f) to be unconstitutional or to recuse ourselves in this case; therefore, we shall deny petitioner's motion.

In light of the foregoing, it is hereby

ORDERED that petitioner's Motion for Recusal of Judge is denied.

**(Signed) L. Paige Marvel  
Chief Judge**

Dated: Washington, D.C.  
August 10, 2017