

UNITED STATES DISTRICT COURT  
DISTRICT OF KANSAS

SALLY S. HILKENE,

Plaintiff,

v.

Case No.: 04-2253-KHV-DJW

WD-40 COMPANY, et al.,

Defendant.

**MEMORANDUM AND ORDER**

Pending before the Court is Plaintiff's Motion to Compel Discovery (doc. 141). More specifically, Plaintiff seeks to compel Defendant Scott Hilkene to produce his personal tax returns through 2005. In support of this request, Plaintiff states she needs this information in order to determine whether he is reporting additional income from the allegedly fraudulent business deal at issue in this lawsuit.

Although, as a general rule, courts do not favor compelling production of tax returns, no absolute privilege exists preventing their discovery.<sup>1</sup> To that end, this district has developed a two-pronged test to assure a balance between the liberal scope of discovery and the policy favoring the confidentiality of tax returns.<sup>2</sup> "First, the court must find that the returns are relevant to the subject matter of the action. Second, the court must find that there is a compelling need for the returns because the information contained therein is not otherwise readily obtainable." "The party seeking production has the burden of showing relevancy, and once that burden is met, the burden shifts to the party opposing production to show that other sources exist from which the information

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<sup>1</sup>*Hilt v. SFC, Inc.*, 170 F.R.D. 187, 188-89 (D. Kan. 1997).

<sup>2</sup>*Id.* at 189

is readily obtainable.”<sup>3</sup>

Upon review of the pleadings, the Court finds Plaintiff fails to adequately demonstrate the first prong of the test by showing anything beyond mere speculation that Defendant’s returns for the years in question are relevant to the subject matter of this action. Given the Court’s policy favoring the confidentiality of tax returns, and the fact that Plaintiff admittedly has only speculated that Defendant Scott Hilke’s tax returns reflect unaccounted income, the Court hereby denies Plaintiff’s Motion to Compel (doc. 141).

IT IS SO ORDERED.

Dated in Kansas City, Kansas on this 25th day of July, 2006.

s/ David J. Waxse  
David J. Waxse  
United States Magistrate Judge

cc: All counsel and *pro se* parties

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<sup>3</sup>*Id.*