

US TAX COURT
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US TAX COURT
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JUL 11 2018

[REDACTED]

Petitioner,

v.

ELECTRONICALLY FILED

Docket No. [REDACTED]

COMMISSIONER OF INTERNAL REVENUE,
Respondent

RESPONDENT'S MOTION TO DISMISS FOR LACK OF
JURISDICTION

CERTIFICATE OF SERVICE

UNITED STATES TAX COURT

[REDACTED]

)
)
Petitioner,)
)
v.)
)
COMMISSIONER OF INTERNAL REVENUE,)
)
Respondent.)

Docket No. [REDACTED]

MOTION TO DISMISS FOR LACK OF JURISDICTION

RESPONDENT MOVES that this case be dismissed for lack of jurisdiction upon the grounds stated herein.

IN SUPPORT THEREOF, Respondent respectfully states:

1. The petition was filed with the Tax Court on June 4, 2018, alleging petitioner received no notice giving this Court jurisdiction for taxable years 2013 through 2017. No documents were attached to the copy of the petition served on respondent.
2. The copy of the petition served upon respondent bears a notation that the date of the U.S. Postmark stamped on the cover in which the petition was mailed to the Tax Court is May 30, 2018.
3. Respondent has diligently searched his records and contacted I.R.S. personnel in an attempt to determine whether a notice of deficiency was issued to petitioner for taxable years 2013 through 2017.

4. Based on respondent's diligent search, and based on a review of respondent's records kept in the ordinary course of business when respondent issues and mails a notice of deficiency to a specific taxpayer, there is no record, information, or other evidence indicating that a notice of deficiency authorized by I.R.C. § 6212 was mailed to petitioner with respect to taxable years 2013, 2014, 2016, and 2017.

5. Accordingly, respondent has determined, based upon the foregoing, that no notice of deficiency sufficient to confer jurisdiction on the Court pursuant to I.R.C. §§ 6212 and 6213(a) has been sent to petitioner with respect to taxable years 2013, 2014, 2016, and 2017.

6. Respondent further determined based upon the above-described diligent search that no other determination has been made by respondent that would confer jurisdiction upon this Court for taxable years 2013, 2014, 2016, and 2017.

7. Additionally, respondent has not made any other determinations with respect to petitioner's taxable years 2013, 2014, 2016, and 2017 that would confer jurisdiction on this Court.

8. Petitioner has neither produced, nor otherwise demonstrated, that a notice of deficiency or other determination sufficient to confer jurisdiction on this Court was mailed to petitioner as required by I.R.C. § 6213(a) and Tax Court Rule 34(b), or other applicable provisions of the Internal Revenue Code or Rules of this Court, for taxable years 2013, 2014, 2016, and 2017.

9. Therefore, respondent moves that this case be dismissed for lack of jurisdiction upon the ground that no statutory notice of deficiency, as authorized by I.R.C. § 6212 and required by I.R.C. § 6213(a) to form the basis for a petition to this Court, has been sent to petitioner with respect to taxable years 2013, 2014, 2016, and 2017, nor has respondent made any other determination with respect to petitioner's taxable year 2013, 2014, 2016, and 2017 that would confer jurisdiction on this Court.

10. Respondent issued a notice of deficiency to petitioner for taxable year 2015 and the petition is timely for that year. Therefore, respondent is not including tax year 2015 in this motion to dismiss.

11. On July 9, 2018, respondent's counsel attempted to contact petitioner by telephone to obtain her views on this motion. Petitioner's telephone did not accept the call. Therefore, petitioner's views are unknown.

WHEREFORE, it is prayed that this motion be granted.

WILLIAM M. PAUL
Acting Chief Counsel
Internal Revenue Service

Date: 7/11/2018

By: [REDACTED]

RBC CR1023
for

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