

UNITED STATES TAX COURT
WASHINGTON, DC 20217

Jazmine M. Valte,)	
)	
Petitioner,)	
)	
v.)	Docket No. 8662-13S.
)	
COMMISSIONER OF INTERNAL REVENUE,)	
)	
Respondent)	

ORDER

On August 1, 2013, petitioner filed a Letter dated July 23, 2013, stating that she wishes “to drop the case” and requesting the Court to “discontinue everything.” The Court will retitle petitioner’s Letter as a Motion To Dismiss.

As explained by this Court in Settles v. Commissioner, 138 T.C. 372, 374 (2012):

In the deficiency context, once a taxpayer has filed a petition with the Tax Court, the taxpayer cannot withdraw that petition. See Estate of Ming v. Commissioner, 62 T.C. 519 (1974). When the Tax Court dismisses a deficiency case for a reason other than lack of jurisdiction, we generally are required by section 7459(d) to enter a decision for the Commissioner for the amount of tax determined against the taxpayer in the notice of deficiency. Id. at 522. Rule 123(d) requires that a decision entered pursuant to a dismissal on a ground other than lack of jurisdiction operate as an adjudication on the merits of the taxpayer’s case. [Fn. ref. omitted.]

This case is based upon a notice of deficiency and, therefore, the petition in this case may not be withdrawn with or without prejudice. See Settles v. Commissioner, 138 T.C. at 374.

SERVED Aug 09 2013

Upon due consideration, it is

ORDERED that petitioner's Letter dated July 23, 2013, filed August 1, 2013, is retitled as petitioner's Motion To Dismiss. It is further

ORDERED that petitioner's motion to dismiss is denied.

**(Signed) Michael B. Thornton
Chief Judge**

Dated: Washington, D.C.
August 9, 2013