

UNITED STATES TAX COURT
WASHINGTON, DC 20217

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| LAUREN E. GOLDSTEIN, |) | |
| |) | |
| Petitioner, |) | |
| |) | |
| v. |) | Docket No. 25669-13. |
| |) | |
| COMMISSIONER OF INTERNAL REVENUE, |) | |
| |) | |
| Respondent |) | |

ORDER

On December 12, 2013, respondent filed a Motion To Dismiss for Lack of Jurisdiction on the ground the petition was neither filed within the time prescribed by I.R.C. section 6213(a) nor postmarked timely, see I.R.C. 7502. On December 19, 2013, respondent filed a Motion To Withdraw the motion to dismiss, stating therein that “[t]he due date of petitions required to be filed during October 1, 2013 and October 16, 2013 was extended to October 25, 2013”. The Court is unaware of any authority that would support that statement, and none has been provided by respondent.

To the contrary, the Tax Court advised its potential litigants in a notice dated October 17, 2013 that, although other filing deadlines would be adjusted to reflect the shutdown in government operations, the Court lacked the power to extend any statutory filing deadlines. See http://www.ustaxcourt.gov/Startup_Announcement_Final_101713.pdf. The IRS website appears to have done the same. See, e.g., <http://www.irs.gov/uac/Newsroom/Reminder:-Oct.-15-Tax-Deadline-Remains-During-Appropriations-Lapse>. Although the Court was closed from October 1, 2013 through October 16, 2013, the United States Postal Service was not affected by the Federal government shutdown and remained open such that a taxpayer would have been able to avail themselves of the “timely mailed is timely filed” provisions of I.R.C. section 7502 (deeming a properly-addressed, late-filed petition timely if mailed on or before the last day for filing).

Premises considered, it is

SERVED Dec 27 2013

ORDERED that respondent's above-referenced motion to withdraw is denied. It is further

ORDERED that, on or before January 16, 2014, petitioner shall file an Objection, if any, to respondent's Motion To Dismiss for Lack of Jurisdiction.

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

Dated: Washington, D.C.
December 26, 2013