

UNITED STATES TAX COURT  
WASHINGTON, DC 20217

DRB

PAUL O. REYNOLDS,	)	
	)	
Petitioner,	)	
	)	
v.	)	Docket No. 7405-14S.
	)	
COMMISSIONER OF INTERNAL REVENUE,	)	
	)	
Respondent	)	
	)	
	)	
	)	

**ORDER OF DISMISSAL FOR LACK OF JURISDICTION**

On May 29, 2014, respondent filed a Motion To Dismiss For Lack Of Jurisdiction on the ground that no notice of determination concerning collection action has been sent to petitioner for tax years 2010 and 2011 that would serve to confer jurisdiction on this Court. See I.R.C. sec. 6330(d)(1). On June 9, 2014, an Objection was filed on petitioner’s behalf, which Objection admits that “No notice of Determination was ever generated by the IRS” and avers that a notice of deficiency was issued instead. See I.R.C. sec. 6212. By Order dated June 13, 2014, the Court directed petitioner to file a Supplemental Objection and attach thereto a complete copy of the notice of deficiency that he received for tax years 2010 and 2011. On June 23, 2014, a Supplemental Objection was filed on petitioner’s behalf. Attached thereto were various documents, none of which was a complete copy of a notice of deficiency. In a Letter dated June 30, 2014, filed July 8, 2014, petitioner argues that he never received the original notice of deficiency and that the incomplete copy attached to the Supplement Objection was all he has.

On July 15, 2014, respondent filed a Reply to petitioner’s Supplemental Objection addressing therein this Court’s jurisdiction with respect to the notice of deficiency issued to petitioner for tax years 2010 and 2011. In that Reply, respondent asserts that this Court lacks jurisdiction with respect to the 2010 and 2011 notice of deficiency because the petition was not timely filed within the period prescribed by the Internal Revenue Code. See I.R.C. secs. 6213(a), 7502. Respondent further states that petitioner previously filed a petition in this Court at Docket No. 15715-13S seeking a redetermination of that notice.

A review of the Court’s records at Docket No. 15715-13S shows that a timely petition was filed with the Court on July 9, 2013, in response to a notice of deficiency for tax years 2010 and 2011. A copy of relevant pages of the deficiency notice dated June 24, 2013, was attached

as an exhibit to the petition.<sup>1</sup> After the Court issued two separate Orders (one dated July 15, 2013, the other dated October 29, 2013) directing petitioner to ratify the petition filed to commence Docket No. 15715-13S, the case at Docket No. 15715-13S was closed by Order Of Dismissal For Lack Of Jurisdiction entered December 16, 2013, on the ground that the petition was not properly executed by petitioner as required by Tax Court Rules of Practice and Procedure.<sup>2</sup> Petitioner did not move to vacate that Order of Dismissal, and it became final on March 17, 2014. See I.R.C. secs. 7481(b), 7503.

On April 1, 2014, petitioner filed a petition to commence the current case at Docket No. 7405-14S. The parties agree that no notice of determination concerning collection action has been issued to petitioner. Therefore, the only question remaining is whether this Court has jurisdiction at Docket No. 7405-14S with respect to the notice of deficiency issued to petitioner for tax years 2010 and 2011.

This Court is a court of limited jurisdiction. It may therefore exercise jurisdiction only to the extent expressly provided by statute. Breman v. Commissioner, 66 T.C. 61, 66 (1976). In a case seeking the redetermination of a deficiency, the jurisdiction of the Court depends, in part, on the timely filing of a petition by the taxpayer. Rule 13(c), Tax Court Rules of Practice and Procedure; Brown v. Commissioner, 78 T.C. 215, 220 (1982). In this regard, section 6213(a) of the I.R.C. provides that the petition must be filed with the Court within 90 days, or 150 days if the notice is addressed to a person outside the United States, after the notice of deficiency is mailed (not counting Saturday, Sunday, or a legal holiday in the District of Columbia as the last day). The Court has no authority to extend this 90-day (or 150-day) period. Joannou v. Commissioner, 33 T.C. 868, 869 (1960).

The record shows that a notice of deficiency for tax years 2010 and 2011 was issued to petitioner on June 24, 2013. The Court is unable to accept petitioner's allegation that he did not receive the June 24, 2013 notice of deficiency in light of petitioner's previous case timely filed at Docket No. 15715-13S. The petition at Docket No. 7405-14S was not filed within the requisite 90-day period for filing a petition seeking a redetermination of a deficiency. Accordingly, the Court is obliged to grant respondent's motion and dismiss Docket No. 7405-14S for lack of jurisdiction.

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<sup>1</sup> Petitioner's address as shown on the June 24, 2013 deficiency notice was an address in Danville, CA, that was the same address listed on the petition filed at dkt. No. 15715-13, as well as on the petition filed at dkt. No. 7405-14S.

<sup>2</sup> Each Order expressly advised petitioner that failure to comply might result in dismissal of the case. Petitioner did not respond to either Order.

In view of the foregoing, it is

ORDERED that respondent's Motion To Dismiss For Lack Of Jurisdiction, filed May 29, 2014, is granted in that this case is dismissed for lack of jurisdiction (1) for want of a notice of determination (collection action) for either tax year 2010 or 2011 and/or (2) for want of a timely-filed petition (redetermination action) for either tax year 2010 or 2011.

**(Signed) Robert N. Armen, Jr.**  
**Special Trial Judge**

Entered: **JUL 23 2014**