

**UNITED STATES TAX COURT
WASHINGTON, DC 20217**

OOLA MAR & MARLIN D. JOHNSON,)
)
 Petitioners,)
)
 v.) Docket No. 19805-14
)
 COMMISSIONER OF INTERNAL REVENUE,)
)
 Respondent.)

ORDER OF DISMISSAL FOR LACK OF JURISDICTION

This case for the redetermination of a deficiency is before the Court on respondent’s motion to dismiss for lack of jurisdiction, filed October 7, 2014. Respondent’s motion is based upon the ground that a statutory notice of deficiency has not been issued to petitioners for 2012 (the year placed in dispute in the petition), nor has respondent made any other determination with respect to that year that would confer jurisdiction on this Court.

Petitioners’ response to respondent’s motion was filed October 9, 2014. Petitioners acknowledge that they have not received a notice of deficiency for 2012, but suggest that such a notice might exist because they received a letter dated August 13, 2014 (letter), from respondent making reference to a notice of deficiency sent to them “earlier”. Petitioners further explain that the letter advised them to “petition the United States Tax Court for a re-determination of the amount of the tax you owe” if they did not agree with that amount. The letter, a copy of which is attached to the petition, apparently prompted petitioners to commence this proceeding.

Respondent’s reply to petitioners’ response was filed November 5, 2014. Respondent identifies the letter as a “Letter 4314C” and explains that from time to time, a Letter 4314C is issued to a taxpayer even though a notice of deficiency had not “earlier” been issued to the taxpayer for the year referenced in the Letter 4314C. According to respondent, that describes the situation before us. Otherwise, respondent’s reply confirms the position taken in his motion, that is, that a notice of deficiency has not been issued to petitioners for 2012.

As respondent views the matter, a Letter 4314C is not a notice of deficiency within the meaning of section 6212¹ or section 6213. Accepting respondent's view requires the dismissal of this case for lack of jurisdiction because, as we have noted in countless opinions and orders, in a deficiency case this Court's jurisdiction depends on the issuance of a valid notice of deficiency and a timely filed petition. Rule 13(a), (c); Monge v. Commissioner, 93 T.C. 22, 27 (1989); Normac, Inc. v. Commissioner, 90 T.C. 142, 147 (1988).

We see little point in challenging respondent's view in this case, as it is clear that respondent's view presumes that the letter does not provide the basis for the assessment of the "amount of tax" the letter claims petitioners "owe".

In view of the foregoing, it is

ORDERED that respondent's motion is granted, and this case is dismissed for lack of jurisdiction upon the ground that a notice of deficiency has not been issued to petitioners for the year placed in dispute in the petition.

(Signed) Lewis R. Carluzzo
Special Trial Judge

ENTERED: **DEC 16 2014**

¹Section references are to the Internal Revenue Code of 1986, as amended. Rule references are to the Tax Court Rules of Practice and Procedure, available on the Internet at www.ustaxcourt.gov.