

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

JOHN L. MADDEN AND EDNA E. MADDEN, )		
DECEASED, JOHN L. MADDEN, SURVIVING )	)	
SPOUSE, )	)	
	)	
Petitioners, )	)	
	)	
v. )	)	Docket No. 10898-14S.
	)	
COMMISSIONER OF INTERNAL REVENUE, )	)	
	)	
Respondent )	)	
	)	
	)	
	)	

**ORDER TO SHOW CAUSE**

On May 14, 2014, a petition to commence the above-docketed case was filed with the Court. That petition, while captioned in the names of both John L. Madden and Edna E. Madden, was unsigned but indicated that it had been submitted by John L. Madden, the surviving spouse, as Edna E. Madden was deceased. Attached to the petition was a copy of a Notice of Deficiency for the taxable year 2012 dated March 28, 2014, issued to John L. Madden and Edna E. Madden. Subsequently, on October 7, 2014, a properly signed Ratification of Petition was filed by John L. Madden.

Since that time, the parties have provided additional information as to the jurisdictional status of this case with respect to Edna E. Madden, Deceased. Most recently, respondent on February 12, 2015, filed a report, and petitioners filed a response thereto on the same date. Those documents establish that Edna E. Madden died intestate on November 18, 2013, and that no estate has been opened on her behalf. Hence, given that the death occurred prior to the filing of petition instituting this proceeding, and no fiduciary has been duly appointed by a court of competent jurisdiction, the record suggests that this case should be dismissed for lack of jurisdiction as to Edna E. Madden, Deceased. Conversely, the provisions of Nordstrom v. Commissioner, 50 T.C. 30 (1968), involving dismissals for lack of prosecution, would appear to be inapplicable.

In general, Rule 60(a) of the Tax Court Rules of Practice and Procedure directs that a case shall be brought by the individual against whom a deficiency or liability has been asserted or by a fiduciary legally authorized to institute a case on behalf of such person. The burden of

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proving that the Court has jurisdiction is on the taxpayer, and unless the petition is filed by the taxpayer or someone lawfully authorized to act on his or her behalf, the Court lacks jurisdiction. Fehrs v. Commissioner, 65 T.C. 346, 348 (1975).

Accordingly, the premises considered, it is

ORDERED that, on or before March 6, 2015, the parties shall show cause in writing why this case should not be dismissed for lack of jurisdiction as to petitioner Edna E. Madden, Deceased, on the ground that the petition was not executed or filed by a fiduciary or personal representative duly appointed by a court of competent jurisdiction and legally to institute a case on behalf of Edna E. Madden or her estate.

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

Dated: Washington, D.C.  
February 13, 2015