

UNITED STATES TAX COURT
WASHINGTON, DC 20217

DRB

Jamie Vorasai,)
)
 Petitioner,)
)
 v.) Docket No. 30286-14S.
)
 COMMISSIONER OF INTERNAL REVENUE,)
)
 Respondent.)

ORDER

The petition commencing this case was filed on December 22, 2014. Petitioner seeks review of the notice of deficiency dated December 8, 2014, issued to petitioner for taxable year 2012.

On February 18, 2015, petitioner filed a Letter Dated January 28, 2015 which the Court will recharacterize as petitioner's motion to dismiss. Among other things, in his motion petitioner states that: (1) petitioner misread the instruction on an IRS letter and filed the petition in this case in error; (2) petitioner has already sent supporting documentation to the IRS; and (3) petitioner moves to dismiss the petition.

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.

Because this case is based upon a notice of deficiency issued to petitioner for 2012, the petition in this case may not be withdrawn, with or without prejudice. See Settles v. Commissioner, 138 T.C. at 374.

Upon due consideration, it is

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ORDERED that petitioner's Letter Dated January 28, 2015, filed February 18, 2015, is recharacterized as petitioner's Motion To Dismiss. It is further

ORDERED that petitioner's Motion To Dismiss is denied. It is further

ORDERED that, on or before March 18, 2015, the parties shall (1) either submit appropriate proposed decision documents, or (2) file written reports (preferably a joint report) with the Court concerning the then present status of this case.

(Signed) Michael B. Thornton
Chief Judge

Dated: Washington, D.C.
February 20, 2015