

UNITED STATES TAX COURT  
WASHINGTON, DC 20217

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| CANDIS L. VON LOSSOW,             | ) |                      |
|                                   | ) |                      |
| Petitioner,                       | ) |                      |
|                                   | ) |                      |
| v.                                | ) | Docket No. 17050-15. |
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| COMMISSIONER OF INTERNAL REVENUE, | ) |                      |
|                                   | ) |                      |
| Respondent                        | ) |                      |
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**ORDER OF DISMISSAL FOR LACK OF JURISDICTION**

The petition underlying the above-docketed proceeding was filed on July 2, 2015, and alleged disagreement the position taken by the Internal Revenue Service (IRS) in response to petitioner’s efforts to obtain a refund of amounts paid for the 2008 taxable year. Attached to the petition were letters and other correspondence passing between petitioner and the IRS in connection with the refund claim, dating from 2012. The most recent item was a letter from the IRS Office of Appeals dated June 17, 2014, advising petitioner that disallowance of the claim in the full amount of \$1,290 for 2008 had been sustained.

On August 19, 2015, respondent filed a Motion To Dismiss for Lack of Jurisdiction, on the ground that no notice of deficiency, as authorized by section 6212 and required by section 6213(a) of the Internal Revenue Code (I.R.C.) to form the basis for a petition to this Court had been sent to petitioner with respect to the taxable year 2008, nor had respondent made any other determination with respect to petitioner’s tax year 2008 that would confer jurisdiction on the Court.

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 issuance by the Commissioner of a valid notice of deficiency to the taxpayer. Rule 13(c), Tax Court Rules of Practice and Procedure; Frieling v. Commissioner, 81 T.C. 42, 46 (1983). The notice of deficiency has been described as “the taxpayer’s ticket to the Tax Court” because without it, there can be no prepayment judicial review by this Court of the deficiency determined

by the Commissioner. Mulvania v. Commissioner, 81 T.C. 65, 67 (1983). Similarly, this Court's jurisdiction in a case seeking review of a determination under section 6320 or 6330, I.R.C., depends, in part, upon the issuance of a valid notice of determination by the IRS Office of Appeals under section 6320 or 6330, I.R.C. Secs. 6320(c) and 6330(d)(1), I.R.C.; Rule 330(b), Tax Court Rules of Practice and Procedure; Offiler v. Commissioner, 114 T.C. 492 (2000). A condition precedent to the issuance of a notice of determination is the requirement that a taxpayer have requested a hearing before the IRS Office of Appeals within the 30-day period specified in section 6320(a) or 6330(a), I.R.C., and calculated with reference to an underlying Notice of Federal Tax Lien Filing and Your Right to a Hearing Under IRC 6320 or Final Notice - Notice of Intent To Levy and Notice of Your Right to a Hearing.

A late or untimely request for a hearing nonetheless made within a one-year period calculated with reference to one of the types of final notice of lien or levy just described will result only in a so-called equivalent hearing and corresponding decision letter, which decision letter is not a notice of determination sufficient to invoke this Court's jurisdiction under section 6320 or 6330, I.R.C. Kennedy v. Commissioner, 116 T.C. 255, 262-263 (2001). A request for a hearing made after said one-year period will be denied, and neither a hearing under section 6320 or 6330, I.R.C., nor an equivalent hearing will be afforded. Secs. 301.6320-1(i)(2), Q&A-I7, I11; 301.6330-1(i)(2), Q&A-I7, I11, *Proced. & Admin. Regs.*

Where a hearing has been timely requested in response to one of the two types of notices set forth *supra*, the IRS Office of Appeals is directed to issue a notice of determination entitling the taxpayer to invoke the jurisdiction of this Court. In that context, section 6330(d)(1), I.R.C., specifically provides that the petition must be filed with the Tax Court within 30 days of the determination. The Court has no authority to extend this 30-day period. Weber v. Commissioner, 122 T.C. 258, 263 (2004); McCune v. Commissioner, 115 T.C. 114, 117-118 (2000). However, if the conditions of section 7502, I.R.C., are satisfied, a petition which is timely mailed may be treated as having been timely filed.

Petitioner was served with a copy of respondent's motion to dismiss and directed to file an objection, if any. Subsequently, the Court on September 11 and 28, 2015, received from petitioner letters requesting that the Court "remove" or "transfer" this case to the United States District Court for the Western District of Washington or the United States Court of Federal Claims, but not explicitly responding to the substance of respondent's motion. At that point, insofar as the record could suggest a degree of confusion, the Court advised petitioner as follows in an Order dated September 30, 2015:

The Tax Court has not been granted the authority to "remove" or "transfer" cases or venue to other Federal Courts. Instead, if petitioner wishes to pursue this case in the courts cited, petitioner would need to file (or to have filed) a petition or complaint directly with those courts, within any applicable time limitations imposed by law. The issue of the Tax Court's jurisdiction is a separate matter from what rights might exist in other courts and is dealt with solely under the statutes governing the Tax Court.

The Order then extended the time for petitioner to file an objection, if any, to respondent's motion until October 21, 2015.

On October 23, 2015, the Court received from petitioner a further letter briefly acknowledging that there had been much confusion and that "the appeal" should have been submitted to the United States District Court in Western Washington or to the United States Court of Federal Claims. The letter then closed with a request for the addresses of the just-listed two courts. No indication of an objection per se to respondent's motion was expressed.

Thus, the record at this juncture suggests that petitioner sought the assistance of the Court after having become frustrated with attempts to work administratively with the IRS but that the petition here was not based upon or instigated by a specific IRS notice expressly providing petitioner with the right to contest a particular IRS determination in this Court. Suffice it to say that none of IRS communications supplied by petitioner to date constitute, or can substitute for, a notice of deficiency or a notice of determination issued pursuant to sections 6320 and/or 6330, I.R.C, regarding 2008, or any other of the narrow class of specified determinations by the IRS that can open the door to the Tax Court.

Moreover, as petitioner now acknowledges, the letters regarding refund disallowance explain how and where litigation to dispute the conclusions reached may be commenced through the Federal court system. For example, the June 17, 2014, letter attached to the petition states:

You may pursue this matter further by filing suit in either the United States District Court or the United States Court of Federal Claims. If you decide to do this, you must file the suit within two years from the date on the letter denying your claim, which was mailed to you on 07/03/2013. However, if you signed a waiver of the notice of disallowance (Form 2297), the two-year period began on the date you filed that waiver.

Please note: Your two-year period has NOT been shortened or extended by our reconsideration of your claim.

The United States Tax Court is neither a United States District Court nor the United States Court of Federal Claims. See also McCormick v. Commissioner, 55 T.C. 138, 142 (1970). Again, as noted in the prior Order, the Tax Court also has not been granted the ability to "transfer" cases or venue to other Federal Courts, and taxpayers need to file a separate petition or complaint directly with those courts. Furthermore, although the Tax Court is not connected to either of these entities, publicly available information reflects an address of 700 Stewart St., Seattle, WA 98101, for the United States District Court for the Western District of Washington, and 717 Madison Pl NW, Washington, DC 20439, for the United States Court of Federal Claims.

In summary, the Tax Court lacks jurisdiction in this case to review any action (or inaction) by respondent in regard to 2008. Congress has granted the Tax Court no authority to afford any remedy in the circumstances evidenced by this proceeding, regardless of the merits of petitioner's complaints.

ORDERED that respondent's Motion To Dismiss for Lack of Jurisdiction is granted, and this case is dismissed for lack of jurisdiction.

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

ENTERED: **OCT 29 2015**