

Brown v. Commissioner, 78 T.C. 215, 220 (1982). In this regard, section 6213(a), 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). 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. In the present case, the time for filing a petition with this Court expired on August 13, 2015. However, the petition was not filed within that period.

Petitioners were served with a copy of respondent's motion to dismiss. On December 7, 2015, petitioners filed a notice of objection to respondent's motion, and on January 7, 2016, petitioners filed a First Supplement thereto. Petitioners state that their accountants mailed the petition timely on August 13, 2015. Attached to petitioners' First Supplement is a letter dated January 4, 2016, from Mr. Mock stating: "Dear Jonathan and Rashelle, Your petition was mailed to the United States Tax Court from our office on 8/13/15 with sufficient postage prepaid."

Contrary to Mr. Mock's statement in the letter dated January 4, 2016, the record shows that the petition was first mailed to the Court, but was returned to Mr. Mock due to insufficient postage. As explained above, the envelope in which the petition arrived contains the original envelope with the stamp "Returned to sender. Returned for add'l postage \$1.10". Although the stamps.com label was obliterated, presumably during the irradiation process, that stamp shows that the first envelope was mailed with postage of \$0.9*¹. The described markings suggest that a previous attempted mailing had been returned to the sender by the U.S. Postal Service for insufficient postage. Hence, although petitioners' representative initially endeavored to send a timely petition to the Tax Court, the petition was returned. Mr. Mock's letter received by the Court along with the petition, and filed by the Court, further supports the finding that the first envelope mailed to the Court was returned to Mr. Mock due to insufficient postage.

Although section 7502, I.R.C., allows a timely mailed petition to be treated as timely filed, that section mandates that the envelope bearing the petition be "postage prepaid, properly addressed to the agency, officer, or office with which

¹The digit in the cents place is unreadable.

the document is required to be filed.”. Sec. 7502(a)(2)(B), I.R.C. The “postage prepaid” element is thus an explicit statutory condition precedent for reliance on section 7502, I.R.C.

The envelope in which petition finally arrived at the Court bears no postmark. Mr. Mock’s letter, received with the petition, however, establishes that the first mailing occurred on August 13, 2015. Petitioners’ contention that the petition was in fact mailed on August 13, 2015, refers to that original mailing. Because the mailing was returned to Mr. Mock, the re-mailing of the petition occurred after that date. The subsequently mailed envelope arrived at the Court on September 11, 2015, which was after the deadline for filing a petition.

While the Court is sympathetic to petitioners’ situation and understands the unintentional character of the inadvertence here, the fundamental nature of the filing deadline precludes the case from going forward. As a Court of limited jurisdiction, the Court is unable to offer any remedy when a petition is filed late. Governing law recognizes no reasonable cause or other applicable exception to the statutory deadline. Accordingly, since petitioners failed to establish that the petition was properly mailed to or filed with this Court within the required period, this case must be dismissed for lack of jurisdiction.

The premises considered, it is

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: **MAR 25 2016**