

UNITED STATES TAX COURT
WASHINGTON, DC 20217

CLC

RONDA ROBINSON,)
)
Petitioner,)
)
v.) Docket No. 1417-16SL
)
COMMISSIONER OF INTERNAL REVENUE,)
)
Respondent.)

ORDER

According to respondent’s motion for summary judgment, filed April 19, 2016, a statutory notice of deficiency (notice), in which a deficiency in petitioner’s 2011 Federal income tax was determined, was issued and properly mailed to petitioner on July 1, 2013. An attachment to respondent’s motion indicates that the notice was not delivered to petitioner but returned “unclaimed” to respondent. Apparently the deficiency was assessed upon petitioner’s failure to challenge it within the period allowed in section 6213(a).¹

Petitioner raised a challenge to the existence and/or the amount of that assessment (underlying liability) at the administrative hearing, and she continues that challenge in this proceeding. Respondent now takes the position that section 6330(c)(2)(B) precludes petitioner’s challenge to the underlying liability. Because nothing in respondent’s motion suggests that petitioner received the notice, or deliberately refused to retrieve it from the post office, see *Sego v. Commissioner*, 114 T.C. 604 (2000), we’re not so sure that we agree. That being so, it is

ORDERED that respondent’s motion is denied.

(Signed) Lewis R. Carluzzo
Special Trial Judge

Dated: Washington, D.C.
May 26, 2016

¹Section references are to the Internal Revenue Code of 1986, as amended.

SERVED May 26 2016