

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

LEROY MUNCY,	)	
	)	
Petitioner(s),	)	
	)	
v.	)	Docket No. 27807-11.
	)	
COMMISSIONER OF INTERNAL REVENUE,	)	
	)	
Respondent	)	

**ORDER**

On December 5, 2011, Mr. Muncy filed a petition in the Tax Court, in which he disputed income tax deficiencies and penalties set forth in a notice of deficiency (NOD) dated September 7, 2011. The NOD which was attached to the petition, was printed on a letterhead from the “Department of Treasury, Internal Revenue Service, Small Business and Self-Employed” and it was signed by Janet Miller.

This case was tried in Little Rock, Arkansas on April 7, 2014. Our decision in this case was entered December 17, 2014, in accordance with our findings of fact and opinion in T.C. Memo 2014-251. In the judgment filed March 2, 2016, and mandate entered April 28, 2016, the Court of Appeals for the Eighth Circuit vacated and remanded this case for proceedings consistent with its judgment.

The Appellate Court in its judgment noted:

“On appeal, the sole issue raised by Muncy is whether the Tax Court lacked subject matter jurisdiction in light of his challenge to the legitimacy of the NOD.”

Further, the Appellate Court said,

“We further conclude that the undeveloped record does not establish whether Miller occupied a position that gave her authority— under the delegation order in effect at the time the NOD was issued, or under any other authorization— to issue Muncy the NOD. Accordingly, we vacate the December 2014 memorandum and order, and remand this case to the tax court with instructions to

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determine whether Miller had authority to issue the NOD that is the subject of this case and for further proceedings consistent with that determination.”

Upon due consideration and for cause, it is hereby

ORDERED that on or before July 22, 2016, each party shall file a response to this Order, and attached thereto an offer of proof in writing, along with copies of documents or describing testimony that he would offer in evidence at further trial, if any, on the jurisdictional question presented on remand. Each party shall also identify any evidence in the record that supports his respective view of the jurisdictional issue. The parties are encouraged to stipulate to any additional documents that may be received without further trial. It is further

ORDERED that on or before August 22, 2016, the parties shall file simultaneous opening briefs on the issue of whether Ms. Janet Miller possessed the authority to issue the NOD that is the subject of this case, and by August 30, 2016, the parties shall file simultaneous answering briefs replying to the arguments made by each party in their respective opening briefs.

**(Signed) Joseph W. Nega  
Judge**

Dated: Washington, D.C.  
June 21, 2016