

UNITED STATES TAX COURT  
WASHINGTON, DC 20217

DONALD ALBONT WATKINS & KATHY L. )  
WATKINS, )  
) )  
Petitioners, )  
) )  
v. ) Docket No. 500-17S.  
) )  
COMMISSIONER OF INTERNAL REVENUE, )  
) )  
Respondent )  
) )  
) )  
) )  
) )  
) )

**ORDER**

On February 22, 2017, respondent filed in the above-docketed case a Motion To Dismiss for Lack of Jurisdiction, on the ground that the petition herein was not filed within the time prescribed by section 6213(a) or 7502 of the Internal Revenue Code (I.R.C.). Respondent attached to the motion, inter alia, copies of a notice of deficiency and corresponding certified mail list, as evidence of the fact that such notice of deficiency for the taxable year 2014, dated September 14, 2016, was sent to petitioners by certified mail on September 14, 2016. Stamped on the first page of that notice as the “Last day to file petition with US tax court” was December 31, 2016. On March 23, 2017, petitioners filed a response in objection to the motion to dismiss, replying explicitly to each allegation made by respondent and emphasizing their reliance on the December 31, 2016, deadline stamped on the notice of deficiency.

In general, 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). However, per the statutory text: “Any petition filed with the Tax Court on or before the last date specified for filing such petition by the Secretary in the notice of deficiency shall be treated as timely filed.” Sec. 6213(a), I.R.C. Respondent’s motion does not appear to address this latter provision.

Accordingly, upon due consideration, it is

**SERVED Mar 24 2017**

ORDERED that, on or before April 14, 2017, respondent shall file a reply to petitioners' just-referenced response.

**(Signed) L. Paige Marvel  
Chief Judge**

Dated: Washington, D.C.  
March 24, 2017