

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

MARK MARINEAU, )  
)  
Petitioner, )  
)  
v. ) Docket No. 9469-16 L.  
)  
COMMISSIONER OF INTERNAL REVENUE, )  
)  
Respondent )

**ORDER**

This collection review case is before the Court on respondent’s Motion for Summary Judgment (motion) with a supporting Declaration of Mary G. Hallman, Internal Revenue Service (IRS) Office of Appeals (Appeals Office) settlement officer (SO Hallman), filed June 23, 2016. By Order dated July 5, 2016, the Court ordered petitioner to file a response to the motion. Petitioner did not file a response, but instead filed a Counter Motion for Summary Judgment (cross motion) wherein he objects to respondent’s motion. The Court ordered respondent to file a response to the cross motion, and respondent filed a response on January 23, 2017, objecting to petitioner’s cross motion. Petitioner filed a reply to respondent’s response on March 24, 2017. Respondent’s motion and petitioner’s cross motion were assigned for disposition to the undersigned on July 5, 2017. See sec. 7443A(b)(4), (c).

Upon close inspection of respondent’s motion, the supporting declaration, and the exhibits attached thereto, the Court is not satisfied that the record is sufficiently complete to justify granting or denying either respondent’s motion or petitioner’s cross motion.

Petitioner disputes that the notice of deficiency, dated June 22, 2015, issued for 2012 that asserted a deficiency and additions to tax, the unpaid tax liability at issue in this case, was mailed to his last known address. SO Hallman attached to her declaration a copy of the notice of deficiency for 2012 bearing an address of 3311 Massena Dr., Pensacola, FL 32526-4534114 and a tracking number across the top of the first page of 9307 1107 5620 1688 2350 24. Respondent attached to

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his response to petitioner's cross motion a copy of a Form 3877 that indicates the notice of deficiency for 2012 was sent by certified mail with a United States Postal Service (USPS) tracking number of 9307 1107 5620 1688 2350 24 to petitioner at 3311 Massena Dr., Pensacola, FL 32526-4534114. This USPS tracking number corresponds to the tracking number located on the notice of deficiency for 2012. SO Hall also attached to her declaration a copy of the USPS Product and Tracking Information for the tracking number listed on both the notice of deficiency for 2012 and the Form 3877 that shows that the notice of deficiency for 2012 was (1) mailed from "Ogden, UT 84401" on June 18, 2015; (2) attempted to be delivered to "Roseville, MI 48066" on June 23, 2015, according to the status "Notice Left (No Authorized Recipient Available)"; (3) unclaimed as of July 21, 2015, according to the status "Unclaimed/Max Hold Time Expired"; and (4) returned to "Salt Lake City, UT 84199" on July 29, 2015. Respondent has not explained why the notice of deficiency for 2012 that was addressed to petitioner at a Florida address was attempted to be delivered to a Michigan address.

Upon due consideration and for cause, it is

ORDERED that, on or before August 24, 2017, respondent shall file a supplement to his motion for summary judgment, explaining the disparity between the address listed in the Form 3877 for the notice of deficiency for 2012 and the attempted delivery city and state on the USPS Product and Tracking Information. It is further

ORDERED that, on or before September 14, 2017, petitioner shall file a response to respondent's supplement to his motion for summary judgment.

**(Signed) Diana L. Leyden  
Special Trial Judge**

Dated: Washington, D.C.  
July 26, 2017