

UNITED STATES TAX COURT
 WASHINGTON, DC 20217

CHARLES JEWELL & SHANNON JEWELL,)
)
 Petitioners,)
)
 v.) Docket No. 20056-17 L.
)
 COMMISSIONER OF INTERNAL REVENUE,)
)
 Respondent.)

ORDER

On November 13, 2017, respondent filed a Motion To Dismiss for Lack of Jurisdiction on the ground the petition was not timely filed. Respondent in his motion to dismiss states, inter alia:

1. The notice of determination dated Aug 17, 2017, upon which the above-entitled case is based, was sent to Petitioners' last known address, the address shown in the notice of determination, by certified mail on Aug 17, 2017, as shown by the postmark date stamped on the Form 3210, a copy of which is attached hereto as Exhibit A.

The act of mailing may be proven by documentary evidence of mailing or evidence of respondent's mailing practices corroborated by direct testimony. Coleman v. Commissioner, 94 T.C. 82, 90 (1982). A U.S. Postal Service Form 3877 reflecting Postal Service receipt represents direct documentary evidence of the date and fact of mailing. Id. A certified mail list is similar to and appears to perform the same function as a Postal Service Form 3877. See Bobbs v. Commissioner, T.C. Memo. 2005-272, at *2. In contrast, the IRS Form 3210 attached as Exhibit A to respondent's motion to dismiss filed in this case, is not a Postal Service Form 3877 or certified mail list. Indeed, see the IRS Form 3810 mentioned in Coleman v. Commissioner, 94 T.C. at 86.

Upon due consideration, it is

ORDERED that, on or before December 7, 2017, respondent shall file a First Supplement to his motion to dismiss. In that Supplement respondent shall set forth and discuss fully respondent's position as to whether the IRS Form 3210 attached as Exhibit A to respondent's above motion establishes respondent's mailing of the notice of determination by certified

mail to petitioners' last known address on August 17, 2017. In that Supplement respondent shall attach to that Supplement, copies of all documents upon which respondent relies to establish mailing of the notice of determination to petitioners' last known address by certified mail on August 17, 2017. Such documents may include (a) tracking information obtained from the U.S. Postal Service, and (2) declarations by IRS employees with personal knowledge of the mailing of that notice of determination.

(Signed) L. Paige Marvel
Chief Judge

Dated: Washington, D.C.
November 15, 2017