

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

JOHN HENRY RYSKAMP,)	
)	
Petitioner,)	
)	
v.)	Docket No. 380-18.
)	
COMMISSIONER OF INTERNAL REVENUE,)	
)	
Respondent)	

ORDER OF DISMISSAL FOR LACK OF JURISDICTION

The petition in this case was filed on January 5, 2018, and alleged dispute with a notice of determination concerning collection action with respect to the 2017 taxable year. Attached to the petition was a copy of an Internal Revenue Service (IRS) Letter 2802C, dated December 28, 2017, advising petitioner that the IRS believed that he had submitted an incorrect Form W-4, Employee’s Withholding Allowance Certificate, to his employer. Across that letter petitioner had handwritten “Notice of Determination”.

On March 7, 2018, respondent filed a Motion To Dismiss for Lack of Jurisdiction, on the ground that no notice of determination, as authorized by sections 6320 or 6330 to form the basis for a petition for review by this Court, had been sent to petitioner with respect to taxable year 2017. On March 19, 2018, petitioner filed an Opposition to respondent’s motion.

The Tax Court is a court of limited jurisdiction. It may therefore exercise jurisdiction only to the extent expressly provided by statute. Breman v. Commissioner, 66 T.C. 61, 66 (1976). This Court’s jurisdiction in a case seeking review of a determination under section 6320 or 6330, depends, in part, upon the issuance of a valid notice of determination by the IRS Office of Appeals (Appeals Office) under sections 6320 or 6330. Rule 330(b); Offiler v. Commissioner, 114 T.C. 492 (2000). A condition precedent to the issuance of a notice of determination is the requirement that a taxpayer have requested a hearing before the Appeals Office within the 30-day period specified in section 6320(a) or

6330(a), and calculated with reference to an underlying Notice of Federal Tax Lien Filing and Your Right to a Hearing Under IRC 6320, Final Notice of Intent To Levy and Notice of Your Right to a Hearing, or analogous post-levy notice of hearing rights under section 6330(f) (e.g., a Notice of Levy on Your State Tax Refund and Notice of Your Right to a Hearing).

Where a hearing has been timely requested in response to one of the types of notices set forth supra, the Appeals Office is directed to issue a notice of determination entitling the taxpayer to invoke the jurisdiction of this Court. In that context, section 6330(d)(1) specifically provides that the petition must be filed with the Tax Court within 30 days of the determination.

Given the foregoing and the record herein, suffice it to say that a Letter 2802C, the only type of alleged notice ever supplied by petitioner, neither constitutes, nor can substitute for, a notice of determination issued pursuant to sections 6320 and/or 6330; or any other of the narrow class of specified determinations by the IRS that can open the door to the Tax Court. Ballard V. Commissioner, T.C. Memo. 2007-159, aff'd, 310 F. App'x 177 (9th Cir. 2009).

Although petitioner cites Ryskamp v. Commissioner, 797 F.3d 1142 (D.C. Cir. 2015), in his petition, that case is clearly distinguishable from the scenario at hand. Rather, dismissal in the instant situation is well established in the Court's precedent.

In conclusion, petitioner has failed to establish that a relevant notice of determination concerning collection action was sent to him for the disputed 2017 period. Therefore, the Court lacks jurisdiction in this case to review any collection action by respondent in regard to the 2017 year.

As a final matter, we note that Mr. Ryskamp is no stranger to the Court--he recently filed a similar petition with the Court at docket No. 7383-16, attaching a Letter 2802C to the petition in a misguided attempt to invoke the Court's jurisdiction for the taxable year 2015. The Court granted the Commissioner's motion to dismiss that case for lack of jurisdiction and denied petitioner's motion to vacate. Section 6673(a)(1) authorizes the Tax Court to require a taxpayer to pay to the United States a penalty not in excess of \$25,000 whenever it appears that proceedings have been instituted or maintained by the taxpayer primarily for delay or that the taxpayer's position in such proceeding is frivolous or groundless. Considering the similarities in this case and the case at docket No. 7383-16, petitioner's position herein is frivolous and groundless. Although the Court will

not impose a penalty on petitioner in this case, he is fairly warned that the Court will strongly consider imposing such a penalty should he return to the Court and advance similar arguments in the future.

The premises considered, it is

ORDERED that respondent's Motion To Dismiss for Lack of Jurisdiction, filed March 7, 2018, is granted, and this case is dismissed for lack of jurisdiction.

(Signed) Daniel A. Guy, Jr.
Special Trial Judge

ENTERED: **MAR 23 2018**