

UNITED STATES TAX COURT
WASHINGTON, DC 20217

JOHN HENRY RYSKAMP,)
)
 Petitioner,)
)
 v.) Docket No. 23808-17 L.
)
 COMMISSIONER OF INTERNAL REVENUE,)
)
 Respondent)

ORDER AND ORDER OF DISMISSAL FOR LACK OF JURISDICTION

This matter is before the Court on petitioner’s Motion for Summary Judgment, filed February 2, 2018, and respondent’s Motion to Dismiss for Lack of Jurisdiction, filed February 27, 2018.¹ Respondent filed a response opposing petitioner’s motion for summary judgment and petitioner filed an objection to respondent’s motion to dismiss. As explained in detail below, we will grant respondent’s motion to dismiss and deny petitioner’s motion for summary judgment.

Background

On May 23, 2011, the Internal Revenue Service (IRS) issued to petitioner a notice of determination concerning proposed lien and levy actions for the taxable years 2003, 2004, 2005, 2006, 2008, and 2009. Petitioner filed with a Court a timely petition for review of the collection action at Docket No. 13681-11L. On January 7, 2014, the Court entered an Order and Decision at docket No. 13681-11L granting respondent’s Motion for Summary Judgment and upholding the lien and levy actions for the six years in dispute. The U.S. Court of Appeals for the D.C. Circuit affirmed the Court’s Order and Decision on appeal by petitioner, Ryskamp v. Commissioner, 797 F.3d 1142 (D.C. Cir. 2015), and a petition for writ of

¹Unless otherwise indicated, section references are to sections of the Internal Revenue Code of 1986, as amended, and Rule references are to the Tax Court Rules of Practice and Procedure.

certiorari was denied by the U.S. Supreme Court, 136 S. Ct. 834 (2016). The Court's decision in that matter is now final. See sec. 7481(a)(2)(B).²

On November 14, 2017, petitioner filed a petition with the Court commencing this case. The only document attached to the petition is copy of a Letter 4473C, dated October 19, 2017, issued by the IRS to petitioner with respect to tax year 2003 and advising that a Form 12153, Request for a Collection Due Process or Equivalent Hearing, had been received but that petitioner was not eligible for an administrative hearing because the request was untimely and an opportunity for hearing had previously been afforded for the taxable year 2003.

Thereafter, on February 27, 2018, respondent filed both a response in objection to petitioner's Motion for Summary Judgment and a separate Motion To Dismiss for Lack of Jurisdiction. Respondent maintains that, as of the date the petition was filed, no notice of deficiency or determination had been issued to petitioner that would allow him to timely invoke the Court's jurisdiction. More specifically, the motion set forth circumstances indicating that: (1) the petition was not timely filed within the statutory period prescribed by sections 6320(c), 6330(d), or 7502 with respect to a notice of determination concerning collection action for taxable year 2003, and that a determination for such year had been the subject of an earlier collection proceeding at Docket No. 13681-11L; and (2) that no other notice or determination had been sent to petitioner with respect to the taxable year 2003, including any determination pursuant to sections 6320 and/or 6330, that would confer jurisdiction on this Court as of the time the petition was filed.

Discussion

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).

In a case seeking the redetermination of a deficiency, the jurisdiction of the Court depends on the issuance by the Commissioner of a valid notice of deficiency

²Except in very limited situations, none of which has been shown to apply here, this Court lacks jurisdiction over a proceeding once a decision or dismissal for lack of jurisdiction becomes final within the meaning of section 7481. See sec. 6214(d); Stewart v. Commissioner, 127 T.C. 109, 112 (2006); Rice v. Commissioner, T.C. Memo. 2006-236.

to the taxpayer and a timely filed petition. Rule 13(a), (c); Frieling v. Commissioner, 81 T.C. 42, 46 (1983). Similarly, this Court's jurisdiction in a case seeking review of a determination concerning collection action under sections 6320 or 6330 depends upon the issuance of a valid notice of determination by the IRS Office of Appeals and a timely petition. See Rule 330(b); Offiler v. Commissioner, 114 T.C. 492 (2000).

On March 5, 2018, petitioner filed an objection to respondent's motion and offered a litany of complaints regarding the processing of his 2003 tax year by the IRS, attempting to revisit issues regarding collection financial standards previously litigated in the case at Docket No. 13681-11L. He neither cited nor attached any relevant notice of deficiency or determination that could provide the Court with jurisdiction for the taxable year 2003 in this case.

To the extent that the petition filed in this case might be characterized as stemming from the determination for the taxable year 2003 previously petitioned at Docket No. 13681-11L, the November 14, 2017, petition would be untimely by a margin of over six years. As to any other potential basis for an action herein for 2003, the record is equally bereft of any evidence or suggestion that respondent has at any time issued any other relevant notice of deficiency or determination for 2003 that would confer jurisdiction on this Court. Suffice it to say that a Letter 4473C, the only type of alleged notice ever supplied by petitioner, neither constitutes, nor can substitute for, a notice of deficiency for 2003 issued pursuant to section 6212, a notice of determination for 2003 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, as of the date the petition was filed.

Although petitioner cites Thornberry v. Commissioner, 136 T.C. 356 (2011), in support of his position, that case is clearly distinguishable from the scenario at hand. Rather, dismissal in the instant situation is well established in the Court's precedent. The expansive view of the Court's jurisdiction expressed in petitioner's objection clearly exceeds the bounds of the Court's limited jurisdiction detailed above. Absent a specific statutory grant to the Court to address a particular notice or scenario, the Court has no general jurisdiction to consider and redress complaints merely because they may pertain to taxes. Stated otherwise, the Court is simply without authority to consider the propriety of any IRS collection activity in absence of a determination to petitioner within the meaning of the statutes discussed herein. Accordingly, since petitioner has failed to establish that the petition was mailed or filed within the required period with respect to the earlier determination for 2003 and has failed to establish the existence of any other

determination by the IRS that could support this litigation for 2003, dismissal follows under the Court's usual jurisdictional proscriptions.

As regards petitioner's Motion for Summary Judgment, in absence of any proper proceeding over which this Court has jurisdiction under section 6330, or other relevant statute, the Court likewise is without jurisdiction to render judgment on the substance of the matter.

The premises considered, it is

ORDERED that petitioner's Motion for Summary Judgment, filed February 2, 2018, is denied. It is further

ORDERED that respondent's Motion To Dismiss for Lack of Jurisdiction, filed February 27, 2018, is granted, and this case is dismissed for lack of jurisdiction.

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

ENTERED: **MAR 23 2018**