

UNITED STATES TAX COURT  
WASHINGTON, DC 20217

JOHN HENRY RYSKAMP,	)	
	)	
Petitioner,	)	
	)	
v.	)	Docket No. 3899-18.
	)	
COMMISSIONER OF INTERNAL REVENUE,	)	
	)	
Respondent	)	

**ORDER AND ORDER OF DISMISSAL FOR LACK OF JURISDICTION**

On February 23, 2018, petitioner filed a petition with the Court indicating that he was challenging a notice of determination concerning a collection action for the taxable year 2018. Attached to the petition is a letter from the Internal Revenue Service (IRS) to petitioner responding to his request for information about the IRS’s Withholding Compliance Program. The letter generally refers petitioner to sections 3402 and 3403 and regulations underlying those provisions.<sup>1</sup>

By Order to Show Cause dated March 22, 2018, the Court directed the parties to show cause in writing why this case should not be dismissed for lack of jurisdiction on the ground that the IRS had not issued to petitioner a notice of determination that would permit him to invoke the Court’s jurisdiction. Respondent filed a response to the Court’s Order stating that a diligent search of its records indicates that no notice of determination has been issued to petitioner for the taxable year 2018. Petitioner filed a response to the Court’s Order arguing that, regardless of whether the letter attached to his petition constitutes a notice of determination, the Court should address the question “what are a taxpayer’s substantive collection due process rights”?

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). It is well settled that the Court’s jurisdiction

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<sup>1</sup>Section references are to sections of the Internal Revenue Code, as amended.

under sections 6320 and 6330 depends, in part, on the issuance of a notice of determination by the IRS Appeals Office after the taxpayer has requested an administrative hearing following the issuance by the IRS Collection Division of either a final notice of intent to levy, see sec. 6330(a), or a notice of filing of Federal tax lien, see sec. 6320(a); McNeill v. Commissioner, 148 T.C. \_\_\_ (slip op. at 3-4) (June 19, 2017); Sarrell v. Commissioner, 117 T.C. 122, 125 (2001); Moorhous v. Commissioner, 116 T.C. 263, 269 (2001); Offiler v. Commissioner, 114 T.C. 492, 498 (2000); see also Rule 330(b).

The record is bereft of any evidence or suggestion that respondent has at any time issued any notice of deficiency or notice of determination for the taxable year 2018 that would confer jurisdiction on this Court. Suffice it to say that the IRS letter attached to the petition, the only type of alleged notice ever supplied by petitioner, neither constitutes, nor can substitute for, a notice of deficiency issued pursuant to section 6212, 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, as of the date the petition was filed. Consequently, it is clear that the Court does not have jurisdiction in this case.

Section 6673(a) authorizes the Court to require a taxpayer to pay a penalty up to \$25,000 whenever it appears that proceedings have been instituted or maintained primarily for delay, or that the taxpayer's position in such proceedings is frivolous or groundless. Petitioner's attempt in this case to invoke the Court's jurisdiction, without a proper notice of deficiency or determination, is frivolous and groundless and has resulted in a waste of judicial resources.<sup>2</sup> Accordingly, the Court will impose a penalty of \$1,000 on petitioner pursuant to section 6673.

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<sup>2</sup>On March 27, 2014, the Court entered an Order of Dismissal and Decision at docket No. 8888-13 granting respondent's motion to dismiss for lack of prosecution, as supplemented. Although the Court denied respondent's motion to impose a sanction on petitioner pursuant to section 6673, the Court warned petitioner that if he advanced frivolous or groundless arguments in future Tax Court proceedings, the Court may impose a section 6673 penalty against him. In addition to the present case, the Court has recently dismissed for lack of jurisdiction petitions that petitioner filed at docket Nos. 20628-17 and 23808-17L.

Upon due consideration and for cause, it is

ORDERED that the Court's Order to Show Cause, dated March 22, 2018, is made absolute and this case is dismissed for lack of jurisdiction. It is further

ORDERED that a penalty of \$1,000 is imposed on petitioner pursuant to section 6673(a).

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

**ENTERED MAY 01 2018**