

UNITED STATES TAX COURT
WASHINGTON, DC 20217

JOHNATHAN JEROME PARSON & SINDY)	
MACIEL PARSON,)	
)	
Petitioners,)	
)	
v.)	Docket No. 26024-17.
)	
COMMISSIONER OF INTERNAL REVENUE,)	
)	
Respondent)	
)	
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ORDER

Pending before the Court is respondent’s Motion To Dismiss For Lack Of Jurisdiction As To Petitioner Sindy Maciel Parson For The Taxable Year 2014, filed February 2, 2018. By Order dated February 5, 2018, petitioners were directed to file with the Court, on or before February 26, 2018, a written objection, if any, to the granting of respondent’s motion and were advised that their failure to do so might result in the granting of the motion. No objection has been received by the Court.

On March 30, 2018, respondent filed a First Supplement to his motion. Most recently, by Order dated May 22, 2018, this case was assigned to the undersigned solely for the purpose of disposing of respondent’s aforementioned motion, as supplemented.

The record in this case is relatively clear. Petitioners are, and have been at all relevant times, married to one another. For 2014, petitioner Johnathan Jerome Parson filed a separate income tax return, and petitioner Sindy Maciel Parson did not file a return nor did respondent prepare one for her pursuant to I.R.C. section 6020(b). In contrast, for 2015, petitioners filed a joint return.

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On October 18, 2017, respondent issued a notice of deficiency determining deficiencies in income tax and accuracy-related penalties for 2014 and 2015. The letter portion of the notice of deficiency was addressed solely to petitioner Johnathan Jerome Parson, and the notice of deficiency-waiver likewise listed petitioner Johnathan Jerome Parson as the sole taxpayer. Notably, the notice of deficiency stated, under the heading “The law regarding married couples”, that “The law requires separate notices for husbands and wives.” Nevertheless, attached to the notice of deficiency were (1) a Form 4549-A, Income Tax Examination Changes, in the sole name of petitioner Johnathan Jerome Parson for 2014 and (2) a separate Form 4549-A in the joint names of petitioners for 2015.

Respondent contends that a notice of deficiency was never sent to petitioner Sindy Maciel Parson for 2014, and there is nothing in the record to belie that contention. Accordingly, because the issuance of a notice of deficiency is an essential prerequisite to this Court’s deficiency jurisdiction, the Court will grant respondent’s motion and dismiss this case insofar as it relates to petitioner Sindy Maciel Parson for 2014.

Whether the Court has jurisdiction over Sindy Maciel Parson for 2015 is a matter over which the Court raised concern in an Order dated March 23, 2018, which Order lead respondent to file the First Supplement to his motion on March 30, 2018. Respondent contends that such jurisdiction exists, essentially because of the attachment of the second Form 4549-A to the notice of deficiency and because petitioners were allegedly not misled or confused by respondent’s approach. However, the Court views the matter differently. First and foremost, it is clear that the October 18, 2017 notice of deficiency was addressed solely to petitioner Johnathan Jerome Parson. See I.R.C. sec. 6212(a) and (b). Second, the Commissioner is obliged, “wherever practicable, [to] send any notice relating to a joint return under section 6013 of the Internal Revenue Code of 1986 separately to each individual filing the joint return.” Internal Revenue Service Restructuring and Reform Act of 1998, Pub. L. No. 105-206, sec. 3201(d), 112 Stat. at 740. This was not done in the present case.

In view of the foregoing, the Court concludes that jurisdiction is lacking over petitioner Sindy Maciel Parson for 2015. Whether respondent might care to remedy this situation by issuing a notice of deficiency to her for such year at this time is, of course, a matter within respondent’s sole discretion. If respondent should choose to do so, then Sindy Maciel Parson is cautioned that she must, if she should wish to contest any deficiency and/or penalty determination, timely file a petition with this Court.

Premises considered, it is hereby

ORDERED that respondent's Motion To Dismiss For Lack Of Jurisdiction As To Petitioner Sindy Maciel Parson For The Taxable Year 2014, filed February 2, 2018, and supplemented March 30, 2018, is granted, and this case is dismissed for lack of jurisdiction insofar as it relates to petitioner Sindy Maciel Parson for 2014 for want of a notice of deficiency for that year. It is further

ORDERED that on the Court's own motion, this case is dismissed for lack of jurisdiction insofar as it relates to petitioner Sindy Maciel Parson for 2015 for want of a notice of deficiency for that year. It is further

ORDERED that the caption of this case is changed to read "JOHNATHAN JEROME PARSON, Petitioner v. COMMISSIONER OF INTERNAL REVENUE, Respondent". It is further

ORDERED that respondent shall, on or before June 30, 2018, file an answer to the petition.

(Signed) Robert N. Armen
Special Trial Judge

Dated: Washington, D.C.
May 31, 2018