

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

TED JOHN NELSON, JR. A.K.A. THEODORE)	
JOHN NELSON, JR.,)	
)	
Petitioner,)	
)	
v.)	Docket No. 11098-18.
)	
COMMISSIONER OF INTERNAL REVENUE,)	
)	
Respondent)	
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ORDER OF DISMISSAL FOR LACK OF JURISDICTION

On July 31, 2018, respondent filed in the above-docketed case a Motion to Dismiss for Lack of Jurisdiction and To Impose a Penalty Under I.R.C. 6673. The motion sought dismissal on the ground that no notice of deficiency, as authorized by section 6212 and required by section 6213(a) of the Internal Revenue Code (I.R.C.) to form the basis for a petition to this Court, had been sent to petitioner with respect to taxable years 2000 through 2017, nor had respondent made any other determination with respect to petitioner’s tax years 2000 through 2017, including any determination pursuant to section 6320 and/or 6330, I.R.C., that would confer jurisdiction on the Court, **as of the date the petition herein was filed**. The motion further requested that the Court impose a penalty under section 6673, I.R.C. That section authorizes the 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(s) primarily for delay or that the position of the taxpayer(s) in such proceeding is frivolous or groundless.

Subsequently, in August 27, 2018, petitioner filed a response to the motion to dismiss. Therein, petitioner did not deny the jurisdictional allegations set forth in respondent’s motion regarding lack of a pertinent notice or determination, nor did it suggest the existence of any relevant notice or determination. To the contrary, the response contained the statement: “I consent to dismissal”.

Upon due consideration, taking into account representations contained in the Petition and the recent response, and for the reasons set forth in respondent’s motion, it is,

ORDERED that so much of respondent's Motion To Dismiss for Lack of Jurisdiction and To Impose a Penalty Under I.R.C. 6673 as seeks dismissal is granted, and this case is dismissed for lack of jurisdiction with respect to each year placed in issue in the petition upon the ground stated in respondent's motion. In all other respects respondent's motion is denied.

Although a section 6673, I.R.C., penalty will not be imposed here, petitioner is admonished that the Court will consider imposing such a penalty in future cases commenced by petitioner seeking similar relief under similar circumstances.

**(Signed) Maurice B. Foley
Chief Judge**

ENTERED: **AUG 29 2018**