

UNITED STATES TAX COURT  
 WASHINGTON, DC 20217

PAULA JEANNE MCADAM, )  
 )  
 Petitioner, )  
 )  
 v. ) Docket No. 12536-18.  
 )  
 COMMISSIONER OF INTERNAL REVENUE, )  
 )  
 Respondent. )

**ORDER OF DISMISSAL FOR LACK OF JURISDICTION**

This case is before the Court on respondent’s motion to dismiss for lack of jurisdiction, filed August 16, 2018, on the grounds that: (1) no notice of deficiency or notice of determination was issued to petitioner for taxable years 2000 through 2002, and 2009 through 2017, that would permit petitioner to invoke the Court’s jurisdiction; and (2) the petition in this case was not filed timely as to the April 3, 2015, deficiency notice issued to petitioner for taxable years 2003 through 2008, nor was any other notice of determination issued to petitioner for taxable years 2003 through 2008 that would confer jurisdiction upon the Court. As also indicated in respondent’s motion to dismiss: (1) on June 15, 2015, petitioner filed a Tax Court petition commencing the redetermination case at docket No. 15503-15 challenging the notice of deficiency dated April 3, 2015, issued to her for taxable years 2003 through 2008; (2) petitioner was represented by counsel in that case at docket No. 15503-15; (3) on August 25, 2016, the Court entered a stipulated decision in docket No. 15503-15; and (4) that decision at docket No. 15503-15 is final [see I.R.C. secs. 7481(a)(1), 7483.<sup>1</sup> In his motion respondent further requests that the Court impose an I.R.C. section 6673 penalty. Section 6673(a)(1) 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 primarily for delay or that the position of the taxpayer in such proceeding is frivolous or groundless.

On September 10, 2018, petitioner filed a Letter Dated September 3, 2018. In her Letter petitioner does not dispute the jurisdictional allegations set forth in respondent’s motion to

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<sup>1</sup>Because petitioner previously challenged the April 3, 2015, deficiency notice issued to her for 2003 through 2008 at docket No. 15503-15, it follows that such deficiency notice does not provide a basis for petitioner to invoke the Court's jurisdiction in this present action at docket No. 12536-18, nor does the Court have the authority to vacate that decision at docket 15503-15, which is final. See *Abatti v. Commissioner*, 759 F.2d 115, 117, (9th Cir. 1988), aff’g 86 T.C. 1319 (1986).

dismiss. However, petitioner does question respondent's requesting the Court to impose the penalty, asking how the Court can impose a penalty upon petitioner here "without jurisdiction being established" in the present action at docket No. 12536-18

Taking into account statements made in the petition, statements made in petitioner's Letter, and for reasons set forth in respondent's motion, it is

ORDERED that so much of respondent's motion that seeks dismissal of the case is granted; in all other respects respondent's motion is denied. It is further

ORDERED that with respect to each year placed in issue in the petition, this case is dismissed for lack of jurisdiction upon the ground stated in respondent's motion.

Although an I.R.C. section 6673 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: **SEP 12 2018**