

UNITED STATES TAX COURT
WASHINGTON, DC 20217

DRC

JESSIE DANIEL MCDONALD,)
)
 Petitioner(s),)
)
 v.) Docket No. 24295-16.
)
 COMMISSIONER OF INTERNAL REVENUE,)
)
 Respondent)

ORDER OF DISMISSAL AND DECISION

This case was called from the calendar of the Trial Session of the Court at Atlanta, Georgia, on September 10, 2018. There was no appearance by or on behalf of petitioner. Counsel for respondent appeared and filed a motion to dismiss for lack of prosecution. In his motion respondent asks this Court to enter a decision that there is a deficiency in income tax due from petitioner for the taxable year 2014 in the amount of \$1,313. Due to concessions by respondent, this sum is smaller than the deficiency that the IRS determined in the notice of deficiency.

The sole issue in this case is whether petitioner had unreported Social Security income for 2014. After the IRS issued the notice of deficiency, petitioner filed an amended return for 2014 admitting receipt of taxable Social Security benefits. On the amended return she reported taxable Social Security benefits of \$8,764 and additional tax owed of \$1,313.

By order dated September 10, 2018, we directed petitioner to show cause in writing why Respondent's Motion to Dismiss for Lack of Prosecution should not be granted. On October 1, 2018, petitioner submitted a letter that we filed as Petitioner's Response to Order Dated 09/10/2018. She offered no explanation as to why she failed to appear for trial on September 10. She asserts that she objects to the entering of a decision because she is over the age of 70 and thus "exempt" from taxation of Social Security income.

Rule 123(b) of the Tax Court Rules of Practice and Procedure provides that, "[f]or failure of a petitioner properly to prosecute, or to comply with these Rules or

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any order of the Court * * *, the Court may dismiss a case at any time and enter a decision against the petitioner.” There is no legal basis for petitioner’s assertion that her age entitles her to an exemption from taxation of Social Security income. See I.R.C. §§ 61(a), 86(a). She admitted that she received taxable Social Security income by filing an amended return reporting it. And she admitted that she had a deficiency of \$1,313 for 2014 by showing on her amended return additional tax due in that amount.

Petitioner has failed to comply with this Court’s Rules and has failed properly to prosecute her case. She has offered no reason why decision should not be entered against her in the amount of \$1,313 as requested by respondent. In consideration of the foregoing, it is

ORDERED that the Court’s Order to Show Cause, dated September 10, 2018, is made absolute. It is further

ORDERED that Respondent’s Motion to Dismiss for Lack of Prosecution, filed September 10, 2018, is granted. It is further

ORDERED AND DECIDED that there is a deficiency in income tax due from petitioner for the taxable year 2014 in the amount of \$1,313.00, and there is no penalty or addition to tax due from petitioner for the taxable year 2014.

(Signed) Albert G. Lauber
Judge

ENTERED: **OCT 09 2018**