

UNITED STATES TAX COURT  
WASHINGTON, DC 20217

|                                   |   |                      |
|-----------------------------------|---|----------------------|
| M. SUE HAWKINS,                   | ) |                      |
|                                   | ) |                      |
| Petitioner,                       | ) |                      |
|                                   | ) |                      |
| v.                                | ) | Docket No. 19223-17. |
|                                   | ) |                      |
| COMMISSIONER OF INTERNAL REVENUE, | ) |                      |
|                                   | ) |                      |
| Respondent                        | ) |                      |

**ORDER**

Now pending before the Court is a document received from petitioner M. Sue Hawkins that we construe as a motion. We will order the Commissioner to file a response and will order Ms. Hawkins to cooperate with the Commissioner’s attorneys as they comply with this order.

This case was scheduled to be tried at the Court's session in Denver, Colorado, beginning Monday, September 24, 2018, pursuant to our “Notice Setting Case for Trial” that was served April 23, 2018 (Doc. 4). We served on the parties reminders of this trial date on August 13, 2018 (Doc. 7), and August 22, 2018 (Doc. 8). When this case was called from the calendar in Denver, Colorado, on September 24, 2018, Ms. Hawkins did not appear. Counsel for the Commissioner made an oral motion to dismiss this case, pursuant to Rule 123(b), for Ms. Hawkins's failure to properly prosecute this case. In our order dated September 24, 2018 (Doc. 12), we ordered Ms. Hawkins to file by October 24, 2018, a response to the motion to dismiss. She did not do so, and on November 15, 2018, we issued an Order of Dismissal and Decision, granting the Commissioner’s oral motion to dismiss and entering decision against Ms. Hawkins.

On November 19, 2018, the Court received from Ms. Hawkins a very short letter that says (without giving dates) that she has been ill and that during her recovery she lacked access to email or the Tax Court’s website. The letter states

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she does not owe any unpaid taxes. Her brief statement in her recent letter seems to be similar her petition (Doc. 1), in which she states that she “may have filed incorrectly” (i.e., on her tax return) but that “as far as I can tell, the deficiency alleges was paid on my behalf by my retirement account.”

Our jurisdiction in this case is not to determine whether her tax liability has been paid but rather to determine what that liability is. In particular, we are to determine whether her 2015 income tax liability is greater than what she reported on her return. Ms. Hawklin seems to admit that there is a deficiency in the tax she reported (the issue over which we have jurisdiction) but to contend that the deficiency has been paid (an issue over which we do not have jurisdiction). It is

ORDERED that the Clerk of the Court shall file Ms. Hawkins’s letter as a motion for reconsideration under Rule 161 and a motion to vacate the decision under Rule 162. It is further

ORDERED that, no later than December 21, 2018, the Commissioner shall file a response to Ms. Hawkins’s motion. That motion shall include information as to the extent to which the deficiency that the IRS asserts here has been satisfied by payments or credits. It is further

ORDERED that Ms. Hawkins shall communicate and cooperate with the Commissioner’s attorneys as they prepare their response to her motion. She shall answer their telephone calls and letters and shall help them to understand what she is contending in this lawsuit. If she were to fail to do so, then the Commissioner’s response so stating would warrant the denial of her motion to vacate, which would leave standing the Order of Dismissal and Decision entered on November 15, 2018.

**(Signed) David Gustafson  
Judge**

Dated: Washington, D.C.  
November 21, 2018