

UNITED STATES TAX COURT
 WASHINGTON, DC 20217

JARED SIMPER,)
)
 Petitioner,)
)
 v.) Docket No. 22306-18S.
)
 COMMISSIONER OF INTERNAL REVENUE,)
)
 Respondent)

ORDER

This case is calendared for trial at the Court’s session in Salt Lake City, Utah, beginning June 10, 2019. On April 24, 2019, respondent file a Motion to Dismiss for Lack of Jurisdiction (motion). Respondent in the motion is claiming that the Internal Revenue Service (IRS) did not issue to petitioner, Jared Simper, a Notice of Determination Concerning Collection Action for 2014 (notice of determination).

On November 13, 2018, Mr. Simper filed his petition in this case, checked the box labeled “Notice of Determination Concerning Collection Action”, and listed 2014 as the year for which such notice was issued. Mr. Simper attached several documents to his petition including a Notice of Intent to seize (levy) your property or rights to property. Mr. Simper did not attach a notice of determination for 2014.

In the motion respondent’s counsel states Mr. Simper submitted a timely Form 12153, Request for a Collection Due Process or Equivalent Hearing, on March 23, 2018. However, according to respondent Mr. Simper’s representative, Bryan Sorenson, signed a Form 12256, Withdrawal of Request for Collection Due Process or Equivalent Hearing, on January 31, 2019.

Respondent attached a copy of that Form 12256 to the motion. The Form 12256 states, “I give up my right to seek judicial review in the Tax Court of the Notice of Determination that Appeals would have issued as a result of the * * * [Collection Due Process] hearing, as Appeals will not issue a Notice of

Determination.” In the motion respondent states a written acknowledgment was mailed to Mr. Simper and his representative on February 19, 2019, and stated that Appeals would not issue a determination in Mr. Simper’s case.

Before filing the motion, respondent’s counsel, Andrew J. Davis, spoke to Bryan Sorenson, Mr. Simper’s representative, on April 22, 2019, to find out if Mr. Simper objected to the motion. Mr. Sorenson told Mr. Davis that Mr. Simper wanted to “seek counsel” before indicating whether he objected to the granting of this motion.

This Court is a court of limited jurisdiction. Section 6330(d) requires that, in order for the Court to review IRS proposed collection, the taxpayer must have timely requested a collection due process hearing before IRS Appeals, must have received a notice of determination (i.e., a notice of a collection determination by Appeals), and must file a petition in this Court within 30 days after that notice of determination was issued. Mr. Simper filed a petition but he did not attach a copy of a notice of determination for 2014.

Upon due consideration and for cause, it is

ORDERED that, on or before May 15, 2019, Mr. Simper shall respond in writing to respondent’s Motion to Dismiss for Lack of Jurisdiction and send a copy of his response to respondent’s counsel. In his response, Mr. Simper should include information about the following:

- If Mr. Simper sees any errors, omissions, or distortions in respondent’s motion to dismiss for lack of jurisdiction, then in his response Mr. Simper should state his corrections.
- If Mr. Simper received a notice of determination for 2014 he must include a copy of that notice with his response.
- If Mr. Simper intends to give up and pursue this case no further, Mr. Simper should tell that to the Court in his response.

If Mr. Simper does not file a response as directed by this order by May 15, 2019, then the Court would expect to grant respondent’s motion and dismiss this case for lack of jurisdiction. Such a dismissal has the effect of allowing the IRS to pursue the proposed levy against Mr. Simper.

Mr. Simper is reminded of the free legal help available through the following clinics:

University of Idaho College of Law-Boise
Low Income Taxpayer Clinic
514 W. Jefferson, Boise, ID 83720
Mailing address: P.O. Box 83720-0051
Phone: (208) 364-6166

University of Utah Low Income Taxpayer Clinic
University of Utah College of Law
383 South University Street
Salt Lake City, UT 84112
Phone: (801) 587-2439

Centro Hispano Low Income Taxpayer Clinic
822 S. Freedom Blvd – Provo
4055 S. 700 E. – Salt Lake City
55 N. Main #203 – Logan
2036 Lincoln Avenue – Ogden
Phone: (801) 655-0258

**(Signed) Diana L. Leyden
Special Trial Judge**

Dated: Washington, D.C.
April 29, 2019