

UNITED STATES TAX COURT
WASHINGTON, DC 20217

William Craig Soucy,)	
)	
Petitioner,)	
)	
v.)	Docket No. 596-12.
)	
COMMISSIONER OF INTERNAL REVENUE,)	
)	
Respondent.)	

ORDER

On March 6, 2012, respondent filed a Motion To Dismiss for Lack of Jurisdiction on the ground the notice of deficiency was issued after the expiration of the period for assessment and collection provided under I.R.C. section 6501(a). Respondent states in the motion to dismiss that petitioner does not object to the granting of the motion.

It is well settled that an allegation concerning the expiration of the period of assessment and collection is an affirmative defense and not a plea to the jurisdiction of this Court. Badger Materials, Inc. v. Commissioner, 40 T.C. 1061 (1963); see also Robinson v. Commissioner, 57 T.C. 735 (1972).

The foregoing and the premises considered, it is

ORDERED that respondent's Motion To Dismiss for Lack of Jurisdiction, filed March 6, 2012, is denied. It is further

ORDERED that, on or before March 29, 2012, the parties shall (a) either submit to the Court appropriate proposed decision documents, or (b) file written reports with the Court concerning the then present status of this case.

(Signed) John O. Colvin
Chief Judge

Dated: Washington, D.C.
 March 8, 2012

SERVED Mar 08 2012