

**UNITED STATES TAX COURT**  
**WASHINGTON, DC 20217**

STANLEY WEISS & LEAH R. WEISS,	)	
	)	
Petitioners,	)	
	)	
v.	)	Docket Nos. 1325-16,
	)	7399-16.
COMMISSIONER OF INTERNAL REVENUE,	)	
	)	
Respondent	)	

**ORDER**

On January 19, 2016, petitioners filed a Petition at Docket No. 1325-16 to dispute a proposed deficiency in Federal income taxes for tax years 2012 and 2013. Petitioners paid the Court's \$60.00 filing fee, but did not attach a notice of deficiency to the petition.

On March 1, 2016, respondent filed a Motion To Dismiss for Lack of Jurisdiction at Docket No. 1325-16 on the ground that no notice of deficiency had been sent to petitioners with respect to tax years 2012 and 2013, nor had respondent made any other determination with respect to petitioners' tax years 2012 and 2013, that would confer jurisdiction on the Court, prior to petitioners' filing their petition. Respondent attached to the motion a copy of the notice of deficiency issued to petitioners on February 12, 2016, for tax years 2012 and 2013. On March 21, 2016, petitioners filed an Opposition to Motion To Dismiss for Lack of Jurisdiction.

The Tax Court is a court of limited jurisdiction and may exercise jurisdiction only to the extent expressly provided by statute. Breman v. Commissioner, 66 T.C. 61, 66 (1976). In a case seeking the redetermination of a deficiency, the jurisdiction of the Court depends on (1) the issuance by the Commissioner of a notice of deficiency, and (2) the filing of a petition with the Court by the taxpayer within 90 days (or 150 days if the notice is addressed to a person outside the United States) after the notice of deficiency is mailed (not counting Saturday, Sunday, or a legal holiday in the District of Columbia as the last day). Rule 13(c), Tax Court Rules of Practice and Procedure; Brown v. Commissioner, 68 T.C. 215, 220 (1982).

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Because the notice of deficiency for petitioners' tax years 2012 and 2013 was issued after the petition in this case was filed, the Court does not have jurisdiction over petitioners' 2012 and 2013 tax years under the petition was filed. I.R.C. sec. 6213(a). However, inasmuch as petitioners' Opposition to Motion To Dismiss for Lack of Jurisdiction was received within 90 days of February 12, 2016, the date the notice of deficiency for tax years 2012 and 2013 was sent to petitioners, a copy of the Opposition shall be filed as a petition at Docket No. 7399-16 to commence a separate case regarding petitioners' 2012 and 2013 tax years. All future communications regarding petitioners' tax years 2012 and 2013 should be directed to Docket No. 7399-16.

The foregoing considered, it is

ORDERED that the Clerk of the Court shall remove the Opposition to Motion To Dismiss for Lack of Jurisdiction, filed March 21, 2016, at Docket No. 1325-16, and file that document as of that date as a Petition to commence a case at Docket No. 7399-16, and the caption of the case at Docket No. 7399-16 shall read "Stanley Weiss and Leah R. Weiss, Petitioners v. Commissioner of Internal Revenue, Respondent". It is further

ORDERED that, on or before April 29, 2016, petitioners shall file an Amended Petition at Docket No. 7399-16. It is further

ORDERED that the filing fee for the case at Docket No. 7399-16 is waived, and New York, New York, is designated as the place of trial in that case.

**(Signed) Michael B. Thornton**  
**Chief Judge**

Dated: Washington, D.C.  
March 31, 2016