

UNITED STATES TAX COURT
WASHINGTON, DC 20217

BRIANA DAWN HO,)	
)	
Petitioner,)	
)	
v.)	Docket No. 12250-19.
)	
COMMISSIONER OF INTERNAL REVENUE,)	
)	
Respondent)	
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ORDER

On July 5, 2019, the Court received from petitioner a letter, attached to which was a copy of a notice of deficiency dated May 28, 2019, issued to petitioner with respect to the 2017 taxable year. To protect petitioner’s statutory time period within which to begin a case, the Court filed that letter as a petition to commence this case at Docket No. 12250-19. On July 16, 2019, the Court issued an Order directing that payment of the \$60.00 filing fee for this litigation be made on or before August 30, 2019. On August 6, 2019, the Court then received from petitioner a further letter indicating that petitioner preferred to work administratively through the Internal Revenue Service (IRS) to resolve the 2017 tax matters, rather than to continue with the instant Court proceeding. Specifically, petitioner asked the Court to allow her to “withdraw” her petition.

Hence, at this juncture, the Court could dismiss this case for lack of jurisdiction as petitioner seems to request, on the ground that petitioner has not paid and does not intend to pay the filing fee. Petitioner would then be free to work solely through the IRS. Yet the closing statement of her recent letter gives pause, as petitioner concluded: “However, I do not wish to close the door with the United States Tax Court in the event I might need to knock in the future.” Given that remark, prior to closing this case, it is advisable to ensure that petitioner understands the implications. Once such a dismissal has become final, the Court would be unable to revisit the determinations regarding 2017 made by the IRS in the May 28, 2019, notice of deficiency, either in this case or in a new case. See *Abatti v. Commissioner*, 859 F.2d 115, 117 (9th Cir. 1988), *aff’d* 86 T.C. 1319 (1986). Except in very limited situations, this Court lacks jurisdiction over a proceeding once a decision or dismissal for lack of jurisdiction becomes final within the meaning of section 7481, I.R.C. See sec. 6214(d), I.R.C.; *Stewart v. Commissioner*, 127 T.C.

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109, 112 (2006); Rice v. Commissioner, T.C. Memo. 2006-236. A reviewable decision of the Tax Court becomes final “Upon the expiration of the time allowed for filing a notice of appeal, if no such notice has been duly filed within such time”. Sec. 7481(a)(1), I.R.C. Section 7483, I.R.C., provides that a notice of appeal may be filed within 90 days after a decision is entered. A nonreviewable decision, such as a disposition in a small tax case “S” proceeding, becomes final “upon the expiration of 90 days after the decision is entered”. Sec. 7481(b), I.R.C.

Accordingly, to confirm that petitioner still wishes to have this case dismissed, it is

ORDERED that, on or before August 30, 2019, petitioner shall file a response to this Order clarifying her understanding and position with respect to the closure of this Tax Court case.

(Signed) Maurice B. Foley
Chief Judge

Dated: Washington, D.C.
August 8, 2019