

Pursuant to Tax Court Rule 50(f), orders shall not be treated as precedent, except as otherwise provided.

UNITED STATES TAX COURT
WASHINGTON, DC 20217 PA

PENGCHENG SI,)	
)	
Petitioner,)	
)	
v.)	Docket No. 18748-18.
)	
COMMISSIONER OF INTERNAL REVENUE,)	
)	
Respondent)	

ORDER

This case is set for trial at the Court’s session in Washington, D.C., beginning January 13, 2020. On December 30, 2019, petitioner Pengcheng Si filed a motion to dismiss (Doc. 16), on the grounds that the notice of deficiency was not sent to taxpayer’s last-known address. The Commissioner filed an opposition (Doc. 21), and Mr. Si filed a reply (Doc. 22) on January 9, 2020. We will deny the motion. This case will proceed to trial at the session beginning January 13, 2020.

Background

On June 26, 2018, the IRS mailed a statutory notice of deficiency (“SNOD”) that bears Mr. Si’s name. (Doc. 4, Ex. A.) The SNOD was on Letter 3219; it addressed the year ending December 31, 2015; and it determined a deficiency of tax of \$7,967, plus an accuracy-related penalty. For purposes of this motion, we assume (as Mr. Si contends) that the SNOD was addressed and mailed to an address that is not his. The SNOD states September 24, 2018 as the “Last Day to File a Petition With the United States Tax Court”.

On September 21, 2018, Mr. Si filed with this Court a petition (Doc. 1) seeking “redetermination of the deficiency set forth by the Commissioner of Internal Revenue in his examination report dated June 26, 2018”. The petition alleges:

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2. The Letter 3219, Notice of Deficiency, ... was mailed to Petitioner's spouse on June 26, 2018 by the Commissioner of Internal Revenue.

3. The deficiency as determined by the Commissioner is in income tax for the calendar year 2015 in the amount of \$7,967.00 (plus penalties and interest), of which the entire amount attributable to the denial of the deductions, i.e., meal, legal services, and other expenses, is in dispute.

Mr. Si filed a motion to dismiss the petition for lack of jurisdiction on the grounds that the SNOD was not mailed to his last-known address.

Discussion

Section 6212(a) authorizes the IRS to "send notice of such deficiency to the taxpayer by certified mail or registered mail". That subsection states no explicit requirement about the address for the SNOD. Section 6212(b)(1) states that an SNOD, "if mailed to the taxpayer at his last known address, shall be sufficient". That is, this subsection does not explicitly require mailing to any particular address but provides that mailing to the last-known address is "sufficient".

Section 6213(a) provides that "[w]ithin 90 days ... after the notice of deficiency authorized in section 6212 is mailed ..., the taxpayer may file a petition with the Tax Court for a redetermination of the deficiency." Our jurisdiction thus depends on the timely filing of the petition, measured by reference to the date of mailing of the SNOD.

Where the SNOD is not mailed to the last-known address, section 6212(a) gives no assurance that the purported SNOD will be "sufficient" for purposes of deficiency proceedings.

However, where the SNOD is mailed to an address other than the last-known address and the taxpayer nonetheless timely files a petition, the jurisdictional requirement of section 6213(a) is satisfied. See Miller v. Commissioner, 94 T.C. 316, 330 (1990). Manifestly, such an SNOD was sufficient, one way or another, to give the taxpayer notice of the IRS's determination, because the taxpayer took the occasion to file a Tax Court petition.

In this case, even though the SNOD was (we assume) not delivered to Mr. Si's last-known address, he was nonetheless able to file a timely petition that accurately described the SNOD in its material details and challenged its determination. He clearly had actual notice of the IRS's deficiency determination, and he was able to timely file a petition. We therefore have jurisdiction over this case.

For the reasons stated above and in the Commissioner's opposition (Doc. 21), it is

ORDERED that petitioner's motion to dismiss is denied and that this case will proceed to trial at the session beginning January 13, 2020. It is further

ORDERED that, promptly after service of this order, the Chambers Administrator of the undersigned judge shall telephone each party and read the first "ORDERED" paragraph of this order.

**(Signed) David Gustafson
Judge**

Dated: Washington, D.C.
January 10, 2020