

UNITED STATES TAX COURT
WASHINGTON, DC 20217

| | | |
|-----------------------------------|---|------------------------|
| BRUCE EDWARD HADDIX & RAE ANNE |) | |
| HADDIX, |) | |
| |) | |
| Petitioners, |) | |
| |) | |
| v. |) | Docket No. 23437-16 L. |
| |) | |
| COMMISSIONER OF INTERNAL REVENUE, |) | |
| |) | |
| Respondent |) | |

ORDER OF DISMISSAL

On October 31, 2016, petitioners filed the petition to commence this case, in which they seek review of a notice of determination, dated September 30, 2016, issued to them with respect to a levy for their 2015 tax year.

On October 15, 2019, respondent filed a Motion To Dismiss on Grounds of Mootness asserting among other things that (1) petitioners submitted an amended return that resulted in the abatement of previously assessed tax, (2) respondent issued a Supplemental Notice of Determination that the proposed levy should not be sustained because petitioners' 2015 liabilities had been fully abated, and (3) because the tax liability has been fully abated, respondent no longer needs and does not intend to levy to collect the tax liability for petitioners' 2015 tax year.

On November 14, 2019, petitioners filed an Objection to Motion To Dismiss on Grounds of Mootness, in which they do not dispute that the 2015 tax liability has been fully abated, but seeks to have the Court deny respondent's motion and hold a hearing.

On these facts, petitioners' challenge to the collection action is moot. See Greene-Thapedi v. Commissioner, 126 T.C. 1, 7-8; cf. Vignon v. Commissioner, 149 T.C. 97, 105 n.4 (2017). This Court does not have jurisdiction to determine an overpayment or order a refund under I.R.C. sections 6320 or 6330. Greene-Thapedi v. Commissioner, 126 T.C. 1, 12-13.

SERVED Feb 03 2020

However, although petitioners may not prosecute a case in this Court, petitioners may continue to pursue administrative resolution relating to their 2015 tax liability directly with the IRS. Also, petitioners may possibly file a claim for refund with the IRS and then (if the claim is denied or not acted on for six months), bring a suit for refund in the appropriate Federal district court or the U.S. Court of Federal Claims. See McCormick v. Commissioner, 55 T.C. 138, 142 (1970); I.R.C. sec. 6511(a).

Upon due consideration, it is

ORDERED that respondent's Motion To Dismiss on Grounds of Mootness is granted, and this case is dismissed.

(Signed) Maurice B. Foley
Chief Judge

Maurice B. Foley
Chief Judge

ENTERED: **FEB 03 2020**