

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

DRC

WILLIAM MICHAEL SHUMER & SUSAN )  
ELAINE SHUMER, )  
 )  
Petitioners, )  
 )  
v. ) Docket No. 9095-19.  
 )  
COMMISSIONER OF INTERNAL REVENUE, )  
 )  
Respondent )

**ORDER**

This case is calendared for trial during the Court's June 15, 2020 Trial Session in Knoxville, Tennessee. On February 18, 2020, petitioners filed Petitioners' Motion to Dismiss for Lack of Jurisdiction.

First, petitioners claim that for their 2016 tax year, respondent's Notice of Deficiency (NOD) issued on February 27, 2019, was signed by a person whose title was "Executive Officer, Return Integrity and Compliance Services" rather than an authorized "Director" of that division of the Internal Revenue Service (IRS) and was therefore invalid. Petitioners claim is that the "Executive Officer" was "expressly not authorized to issue Notices of Deficiency, both by statute and by Internal Revenue Manual Servicewide delegations of Authority." [sic]

Petitioners do not dispute that respondent mailed them a timely Notice of Deficiency for tax year 2016, nor do they dispute that they received it. Their arguments focus solely on the adequacy of the NOD because it was signed by an employee of the IRS purportedly not authorized to do so.

Petitioners' assertions, however, are completely without merit. A NOD is validly issued if sent by certified or registered mail to the taxpayer's last known address. Sec. 6212(a) and (b). There is no requirement that the NOD be specially signed by an authorized agent. We have long held the Commissioner is not even under an obligation to sign a statutory NOD in order for the NOD to be valid. Sec. 6212; see Commissioner v. Oswego Falls Corp., 71 F. 2d 673, 677 (2d Cir. 1934),

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affg. 26 B.T.A. 60 (1932); Pendola v. Commissioner, 50 T.C. 509, 514 (1968); Clough v. Commissioner, T.C. Memo. 2007-106.

Thus, to the extent petitioners asked the Court to dismiss their case for lack of jurisdiction based on an unauthorized signature on the NOD, we will deny petitioners' motion. The NOD in this case is valid.

Second, petitioners claim, based on a letter issued by respondent on May 2, 2019, that "respondent has determined, subsequent to the issuance of the subject Notice of Deficiency, that Petitioners owe no additional tax." Petitioners received the May 2, 2019 letter prior to filing their petition in this case. Petitioners appear to be concerned that the May 2, 2019, letter would preclude this Court from ruling on their claim of an overpayment that should be refunded. Specifically, petitioners in their prayer for relief, requested this Court abate all penalties and determine that they are entitled to a refund of \$75,325.27.

As to this additional request, it is clear under section 6512(b)<sup>1</sup> that we have jurisdiction to determine overpayments where a valid NOD has been issued, as here. Thus the penalty abatement and refund issues remain ripe for trial; and will be tried at the Knoxville, Tennessee session of this Court schedule to begin on June 15, 2020.

After due consideration, and for cause, it is hereby

ORDERED that petitioners' Motion to Dismiss for Lack of Jurisdiction, filed on February 18, 2020, is denied.

**(Signed) Elizabeth A. Copeland  
Judge**

Dated: Washington, D.C.  
March 13, 2020

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<sup>1</sup> All section references are to the Internal Revenue Code in effect for the years in issue, and all Rule references are to the Tax Court Rules of Practice and Procedure, unless otherwise indicated.