

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

ROBERT WILLIAM BERLETH,)
)
 Petitioner,)
)
 v.) Docket No. 21414-18W
)
 COMMISSIONER OF INTERNAL REVENUE,)
)
 Respondent.)

ORDER

This I.R.C. §7623(b)(4) case is before the Court on respondent’s motion to dismiss for lack of jurisdiction, filed December 21, 2018. Respondent’s motion is based upon the ground that the petition was not filed within the period prescribed by I.R.C. §7623(b)(4).

Because the time period described in I.R.C. §7623(b)(4) is not jurisdictional, see Myers v. Commissioner, 928 F.3d 1025 (D.C. Cir. 2019), it is

ORDERED that respondent’s motion is denied. It is further

ORDERED that respondent’s answer is due within 60 days from the date of service of this Order.

**(Signed) Lewis R. Carluzzo
Special Trial Judge**

Dated: Washington, D.C.
April 24, 2020

SERVED Apr 24 2020