

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

TONY PATRINICOLA &	)	
BARBARA PATRINICOLA,	)	
	)	
Petitioners,	)	
	)	
v.	)	Docket No. 498-19.
	)	
COMMISSIONER OF INTERNAL REVENUE,	)	
	)	
Respondent	)	

**ORDER**

The subject matter of this case is the income tax liability for the tax year 2016 of petitioners, Tony and Barbara Petrinicola. The Court’s jurisdiction is based on a statutory notice of deficiency dated November 5, 2018 (attached to the petition), which the Internal Revenue Service (“IRS”) sent to petitioners. On July 10, 2020, the Court received petitioners’ letter dated April 11, 2020 (Doc. 36). The letter “request[s] that the 2018 tax issue be included” in this case. We will construe the letter as a motion for leave to amend the petition and will order the Commissioner to file a reply.

**Background**

The IRS sent to petitioners a Notice CP90 dated April 6, 2020 (attached to Doc. 35), which is entitled “Intent to seize your assets and notice of your right to a hearing”. The notice states: “[Y]ou can appeal the proposed seizure (levy) of your assets by requesting a Collection Due Process hearing (Internal Revenue Code Section 6330) by May 6, 2020.” We assume (subject to correction) that the attachment to this letter was a notice issued pursuant to section 6330(a)(1).

However, the notice evidently does double duty both as a notice of right to a CDP hearing and as a demand for payment. (Cf. Webber v. Commissioner, No.

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14307-18L (order of June 7, 2019).) On the front page of the notice, underneath its title, is the phrase "Amount due immediately: \$8,236.89". The bottom third of page 1 of the Notice CP90 is an address slip that the taxpayer can use to make a payment of the stated liabilities. It gives an IRS address in Cincinnati, Ohio, and as an "Amount due immediately" it repeats the amount of \$8,236.89.

In response to that notice, petitioners mailed their letter (Doc. 35) on April 13, 2020, in an envelope addressed not to the IRS's Cincinnati address but rather to:

United States Tax Court  
Attn: Commissioner of Internal Revenue  
Maurice B. Foley (Chief Judge)  
Washington, D.C. 20217

The letter states (with spelling errors corrected):

Dear IRS Commissioner:

... On April 10th I suddenly received an order from a totally different IRS of Cincinnati, Ohio of "INTENT TO SEIZE MY ASSETS" while totally refusing my taxpayers rights to assure I am paying the right amount of taxes. (COPY ENCLOSED) There are more than six non-responsive IRS offices involved and ALL HAVE REFUSED TO REPLY TO MY CONCERNS, WHILE CHARGING PENALTIES AND INTEREST AS A FRAUDULENT MEANS TO GAIN UNJUSTIFIED FUNDS. I have met all requirements to have the Tax Court review unsolvable tax issues and I am requesting that the 2018 tax issue be included as I am now threatened with unjust property seizure, while refusal to answer my inquiries. I cannot believe at the serious lack of cooperation of American IRS offices. I need your help as the very beginning of our country was based on TAXATION WITHOUT REPRESENTATION, which I am confronted with 300 years later....

At the time petitioners mailed this letter, the Tax Court's mail was being held by the Post Office and not delivered because of the coronavirus pandemic. In July 2020 the Tax Court began receiving its backlog of mail, and on July 10, 2020, petitioners' letter was first opened and was date-stamped as received. Sometime

thereafter it was processed by the Court's docket personnel and was delivered to the undersigned judge.

### Discussion

It appears that petitioners have not alleged their receipt of any document from the IRS that would give this Court jurisdiction over their 2018 income tax liability (such as a statutory notice of deficiency under section 6212(a), which could support jurisdiction over a deficiency case pursuant to section 6213(a), or a notice of determination pursuant to section 6330(c)(3) after a CDP hearing, which could support jurisdiction over a collection review case pursuant to section 6330(d)(1)). However, before ruling on petitioners' motion to add 2018 to this case, we would benefit from additional information from the Commissioner.

A taxpayer's proper response to a notice under section 6330(c)(1) is to request a "collection due process" ("CDP") hearing. Although the statute does not explicitly state that such a request is to be sent to the IRS, the provision that "such hearing shall be held by the Internal Revenue Service Independent Office of Appeals", sec. 6330(b)(1), indicates that the request should be directed to the IRS. Petitioners composed a letter to the Commissioner that appears to constitute such a request, and they put it in an envelope directed to "Attn: Commissioner of Internal Revenue"--but they sent the letter to the Tax Court.

The United States Tax Court is an entity distinct from the IRS and its Commissioner, and the Tax Court does not serve as a mail-forwarding service for the IRS. However, we note that the apparent section 6330(c)(1) notice for 2018 features an IRS address that the notice characterizes as the place to send payments, perhaps leaving the taxpayer unclear as to where he should send his response if he wishes not to pay but to dispute the liability in a "hearing". Petitioners in this case evidently think that the place to ventilate disputes with the IRS is the Tax Court, and that is where they sent their request.

It is

ORDERED that petitioners' letter dated April 11, 2020 (Doc. 36), shall be deemed a motion for leave to amend their petition, and that the Clerk of the Court shall so recharacterize the document in the Court's records. It is further

ORDERED that, no later than September 4, 2020, the Commissioner shall file a response to petitioners' motion for leave to amend their petition to include

tax year 2018. That response shall include a statement of respondent's position as to whether (a) petitioners' mailing of Doc. 36 to the Tax Court on April 13, 2020, should, for purposes of section 6330(a)(3)(B), be deemed to constitute a timely request for a hearing, (b) whether petitioners served on respondent a copy of Doc. 36 on or before May 6, 2020, and (c) whether respondent otherwise received from petitioners a request for a hearing as to the 2018 levy on or before May 6, 2020. It is further

ORDERED that, no later than September 28, 2020, petitioners shall file a reply to respondent's response.

**(Signed) David Gustafson**  
**Judge**

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