

UNITED STATES TAX COURT
 WASHINGTON, DC 20217

JOSHUA R. PARKINSON,)
)
 Petitioner,)
)
 v.) Docket No. 296-15.
)
 COMMISSIONER OF INTERNAL REVENUE,)
)
 Respondent.)

ORDER

The petition in this case was filed on January 5, 2015. Petitioner seeks review of the notice of deficiency dated October 3, 2014, issued to him for taxable years 2005, 2007, and 2008. Attached to that petition is a copy of that deficiency notice for 2005, 2007, and 2008. That deficiency notice states that the last day for filing a timely Tax Court petition as to that notice would be January 1, 2015.¹ That petition, filed January 5, 2015, was received by the Court in a shipping package bearing a FedEx First Overnight label with a Ship Date "31DEC14". On March 13, 2015, respondent filed an Answer to the petition. On June 10, 2015, respondent filed a Motion for Entry of Order that Undenied Allegation Be Deemed Admitted Pursuant to Rule 37(c) (the Rule 37(c) motion). In our Notice of Filing of Motion for Order Under Rule 37(c) dated June 12, 2015, the Court (1) notified petitioner of respondent's Rule 37(c) motion, filed June 10, 2016, seeking an order that specified affirmative allegations in the answer be deemed admitted, and (2) advised petitioner (a) if petitioner filed a reply as required under Tax Court Rule 37(a) and (b) on or before July 2, 2015, respondent's Rule 37(c) motion would be denied, and (b) if petitioner does not file a reply as directed therein, the Court would grant respondent's Rule 37(c) motion and deem admitted for purposes of this case the affirmative allegations in the answer.

In an Order To Show Cause, dated July 7, 2015, we, among other things, directed petitioner and respondent each to show cause, in writing, why the Court should not dismiss this

¹As noted in our below Order To Show Cause, dated July 7, 2015, since January 1, 2015, is New Year's Day which is a legal holiday in the District of Columbia, the last day for filing a timely petition as to the deficiency notice for 2005, 2007, and 2008 upon which this case is based, would instead be January 2, 2015. I.R.C. sec. 7503; D.C. Stat. sec. 28-2701; sec. 301.7503-1(b), Proced. & Admin. Regs.

case for lack of jurisdiction on the ground the petition was not filed timely. On July 28, 2015, respondent filed his Response to Order Dated 07/07/2015. On July 28, 2015, petitioner filed his Response to Order Dated 07/07/2015.

In Guralnik v. Commissioner, 146 T.C. ___, 2016 WL 3165779, at *9-14, (Jun. 2, 2016), we, among other things, held that the taxpayer's Tax Court petition therein was timely applying the principles of Rule 6(c), Federal Rules of Civil Procedure, since that petition was filed on the first day the Clerk's Office was accessible that was not a Saturday, Sunday, or holiday.

As pertinent to the instant case, on January 2, 2015 (a Friday), the Tax Court was closed. See Notice posted at [https://www.ustaxcourt.gov/Notice 121014.pdf](https://www.ustaxcourt.gov/Notice%20121014.pdf), a copy of which is attached as Exhibit A to our below Order dated August 1, 2016. In our Order dated August 1, 2016, we directed petitioner and respondent each to file a Response to that order setting forth and discussing fully that party's position as to the possible application, if any, to this case of Guralnik v. Commissioner, *supra*. On August 18, 2016, respondent filed a Response to Order Dated 08/01/2016. Among other things, in his Response respondent states/indicates that: (1) under Guralnik the petition in this case was filed timely on Monday, January 5, 2015 (the first day the Clerk's Office was accessible), since the Clerk's Office was inaccessible on Friday, January 2, 2015; and (2) the Court should not dismiss this case for lack of jurisdiction on the ground the petition was not timely filed. On September 19, 2016, petitioner filed a Response to Order Dated 08/01/2016 in which he agrees this case should not be dismissed for lack of jurisdiction.

The foregoing considered and for cause, it is

ORDERED that the Court's Order To Show Cause, dated July 7, 2015, is discharged. It is further

ORDERED that the time within which petitioner may file a reply as required by Tax Court Rule 37(a) and (b), is extended to October 12, 2016. If petitioner files a reply as required by Rule 37(a) and (b) by October 12, 2016, respondent's Rule 37(c) motion will be denied. If petitioner does not file a reply as directed herein, the Court will grant respondent's Rule 37(c) motion and deem admitted for purposes of this case the affirmative allegations in the answer.

**(Signed) L. Paige Marvel
Chief Judge**

Dated: Washington, D.C.
September 21, 2016