

UNITED STATES TAX COURT
 WASHINGTON, DC 20217

KERRY ADOLPHSON,)
)
 Petitioner,)
)
 v.) Docket No. 21816-14 L
)
 COMMISSIONER OF INTERNAL REVENUE,)
)
 Respondent.)

ORDER OF DISMISSAL FOR LACK OF JURISDICTION

This section 6330(d)¹ case is before the Court on (1) petitioner’s motion to restrain assessment or collection and to order refund of amount collected, filed September 15, 2014, and (2) respondent’s motion to dismiss for lack of jurisdiction, filed November 19, 2014. Respondent’s motion is based upon the ground that a notice of determination, as contemplated by section 6330(d), has not been issued to petitioner for the years placed in dispute in the petition. Otherwise, the positions of the parties are set forth in their submissions filed in response to the motions.

Petitioner agrees that the Court is without jurisdiction in this matter. That being so, his motion to restrain must be denied as our authority to grant the relief he seeks arises only in cases where our jurisdiction under section 6330(d) has properly been invoked. See sec. 6330(e). Petitioner, however, disagrees with respondent’s ground for the dismissal.

Petitioner points out that respondent cannot firmly establish to what address(es) notices of intent to levy with respect to more than \$240,000 in outstanding Federal income tax liabilities for 2002, 2006, 2007, 2008, 2009, and 2010 were sent to him. Relying upon Buffano v. Commissioner, T.C. Memo. 2007-32, petitioner argues that the Court is without jurisdiction in this case because

¹Unless otherwise noted, section references are to the Internal Revenue Code of 1986, as amended.

respondent cannot establish that the notices of intent to levy were sent to him at his last known address. See sec. 6330(a)(2).²

Petitioner's reliance upon Buffano is misplaced. The record in Buffano contained information showing the address shown on the taxpayer's relevant Federal income tax return, the starting point for purposes of establishing a taxpayer's last known address. See sec. 301.6212-2(a) Proced. & Admin. Regs.; Kennedy v. Commissioner, 116 T.C. 255 (2001); Abeles v. Commissioner, 91 T.C. 1019 (1988). Petitioner has not established what, if any, address was shown on his Federal income tax return(s) most recently filed before the relevant notices of intent to levy were issued.³ Furthermore, under the circumstances before us and contrary to petitioner's suggestion, the address shown on respondent's November 5, 2012, letter to him is hardly determinative as to his "last known address" for purposes of section 6330.

Because of the paucity of information as to petitioner's last known address, we decline to make any finding on the point in resolving the jurisdictional motion before us. To the extent that there are any irregularities in the assessment process giving rise to the above-mentioned liabilities, or to the collection of those liabilities, petitioner's remedies, if any, lie in a different Federal court.

To reflect the foregoing, it is

ORDERED that petitioner's motion is denied. It is further

²Technically, petitioner has not made a cross-motion to dismiss for lack of jurisdiction, but his position on the Court's jurisdiction is clear.

³Respondent's records in this case suggest that petitioner failed to file a Federal income tax return for any of the years to which the notices of intent to levy relate, a point not disputed by petitioner.

ORDERED that respondent's motion is granted, and this case is dismissed for lack of jurisdiction.

(Signed) Lewis R. Carluzzo
Special Trial Judge

ENTERED: **FEB 03 2015**