

UNITED STATES TAX COURT
 WASHINGTON, DC 20217

SINEAD FITZPATRICK,)
)
 Petitioner,)
)
 v.) Docket No. 4416-15S.
)
 COMMISSIONER OF INTERNAL REVENUE,)
)
 Respondent)
)

ORDER OF DISMISSAL FOR LACK OF JURISDICTION

On March 24, 2015, respondent filed a Motion to Dismiss for Lack of Jurisdiction on the ground that the petition was not timely filed within the period prescribed by the Internal Revenue Code (I.R.C.). Respondent attached to his motion as (1) Exhibit A, a copy of a postmarked Facsimile PS Form 3877, and (2) as Exhibit B, a copy of the notice of deficiency issued to petitioner for taxable year 2012, showing that deficiency notice deficiency for 2012 was sent to petitioner’s last known address by certified mail on November 17, 2014. On April 14, 2015, petitioner filed an Objection to respondent’s motion to dismiss.

The record reflects that the petition in this case was received and filed by the Court on February 18, 2015. The last date by which petitioner could file a timely Tax Court petition as to the deficiency notice for 2012 was February 17, 2015. The petition, filed on February 18, 2015, was hand delivered to the Court on February 18, 2015--one day after the 90-day period prescribed by section 6213(a) expired.

Petitioner was served with a copy of respondent’s Motion to Dismiss for Lack of Jurisdiction and given the opportunity to file an Objection. On April 14, 2015, petitioner filed an Objection to Motion to Dismiss for Lack of Jurisdiction. In that objection, petitioner does not dispute the jurisdictional allegations contained in respondent’s motion. Rather, petitioner states that “on February 17, 2015, the Tax Court was officially closed due to emergency snow clearing caused by a major snow storm.”

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Section 7508A of the I.R.C. authorizes the Secretary to postpone certain tax related deadlines in situations involving Presidentially declared disasters. A review of the Federal Emergency Management Agency's (FEMA) website does not show that a Presidential disaster declaration was issued for the Washington, D.C. area on or around February 17, 2015. In the absence of such a declaration, the storm, even if it caused a closure of Federal buildings, can provide no relief from the 90-day deadline for purposes of section 7508A.

This Court is a court of limited jurisdiction. It may therefore exercise jurisdiction only to the extent expressly provided by statute. Breman v. Commissioner, 66 T.C. 61, 66 (1976). In a case seeking the redetermination of a deficiency, the jurisdiction of the Court depends, in part, on the timely filing of a petition by the taxpayer. Rule 13(c), Tax Court Rules of Practice and Procedure; Brown v. Commissioner, 78 T.C. 215, 220 (1982). In this regard, section 6213(a) of the I.R.C. provides that the petition must be filed with the Court within 90 days, or 150 days if the notice is addressed to a person outside the United States, after the notice of deficiency is mailed (not counting Saturday, Sunday, or a legal holiday in the District of Columbia as the last day). The Court has no authority to extend this 90-day (or 150-day) period. Joannou v. Commissioner, 33 T.C. 868, 869 (1960). If the petition is not timely filed, the Court is without jurisdiction to review the merits of petitioner's liability. The record shows the petition was not timely filed. Accordingly, we are obliged to dismiss this case for lack of jurisdiction.

Petitioner cannot prosecute this case in this Court. However, petitioner may still continue to pursue administrative resolution of his 2012 tax liability directly with the Internal Revenue Service. Also, petitioner may pay the tax, file a claim for refund with the Internal Revenue Service, and if the claim is denied, sue for a refund in the Federal district court or U.S. Court of Federal Claims. See McCormick v. Commissioner, 55 T.C. 138, 142 (1970).

In view of the foregoing, it is

ORDERED that respondent's Motion to Dismiss for Lack of Jurisdiction is granted, and this case is dismissed for lack of jurisdiction.

(Signed) Michael B. Thornton
Chief Judge

ENTERED: **APR 28 2015**