

UNITED STATES TAX COURT  
 WASHINGTON, DC 20217

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

**ORDER TO SHOW CAUSE**

The petition commencing in this case was received and filed with the Court 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. 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.

In Austin v. Commissioner, T.C. Memo. 2007-11, we discussed the governing law under I.R.C. section 7502. Section 7502(f) governs the treatment of private delivery services under section 7502. In Notice 2004-83, 2004-2 C.B. 1030, the Commissioner includes among designated private delivery services FedEx Priority Overnight, FedEx Standard Overnight, FedEx 2 Day, FedEx International Priority, and FedEx International First. In pertinent part, Notice 2004-83 further provides that "FedEx \* \* \* [is] not designated with respect to any type of delivery service not identified above." FedEx First Overnight which petitioner used to mail the petition to the Court thus is not a designated private delivery service under Notice 2004-83.

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 have been January 2, 2015. I.R.C. sec. 7503; D.C. Stat. sec. 28-2701; sec. 301.7503-1(b), Proced. & Admin. Regs.

An examination of the petition, the deficiency notice attached thereto, and shipping package in which that petition was received, suggests the petition was not filed timely as to the deficiency notice for 2005, 2007, and 2008 upon which this case is based. If such be the case, this Court would lack jurisdiction to review that deficiency notice. I.R.C. sec. 6213(a); Brown v. Commissioner, 78 T.C. 215, 220 (1982); Rule 13(c), Tax Court Rules of Practice and

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Procedure; see also Eichelburg v. Commissioner, T.C. Memo. 2013-169, at \*2-3 (holding that timely mailing/timely filing provisions of I.R.C. section 7502 are inapplicable to a Tax Court petition shipped via FedEx Express Saver, since FedEx Express Saver is not a “designated private delivery service”).

Upon due consideration, it is

ORDERED that, on or before July 28, 2015, respondent shall file a Response to this Order and attach thereto, a postmarked U.S. Postal Service Form 3877, or other proof of mailing, showing respondent sent the deficiency notice for 2005, 2007, and 2008 upon which this case is based, to petitioner at his last known address by certified mail on October 3, 2014. It is further

ORDERED that, on or before July 28, 2015, petitioner and respondent each shall show cause, in writing, why the Court should not dismiss this case for lack of jurisdiction on the ground the petition was not timely filed. The Court will hold in abeyance respondent’s motion pursuant to Rule 37(c), filed on June 10, 2015.

**(Signed) Michael B. Thornton**  
**Chief Judge**

Dated: Washington, D.C.  
July 7, 2015