

UNITED STATES TAX COURT
WASHINGTON, DC 20217

DRC

WENDELL C. ROBINSON & MAY T. JUNG-)
ROBINSON,)
)
Petitioner(s),)
)
v.) Docket No. 25105-12 L.
)
COMMISSIONER OF INTERNAL REVENUE,)
)
Respondent)

ORDER

On August 24, 2018, we filed petitioners' motion for reconsideration of order and/or relief from judgment (motion). On September 6, 2018, we ordered respondent to respond to the motion, and, on September 18, 2018, we filed his response (response). We will deny the motion substantially for the reasons advanced by respondent in the response. We briefly summarize why we deny the motion. All section references are to the Internal Revenue Code of 1986, as amended and in force at relevant times, and all Rule references are to the Tax Court Rules of Practice and Procedure.

The motion seeks "to alter and/or amend, and vacate, in part, * * * [the Court's] order of October 19, 2017." On that date, we issued no order in this case, but we did file our Memorandum Opinion, T.C. Memo. 2017-207, holding that we would sustain respondent's determination to sustain his notice of levy. Rule 161 provides for reconsideration of findings or opinion. We have discretion whether to grant a motion for reconsideration of an opinion. CWT Farms, Inc. v. Commissioner, 79 T.C. 1054, 1057 (1982), aff'd, 755 F.2d 790 (11th Cir. 1985). Generally, we will not reconsider proceedings already concluded in the absence of substantial error or unusual circumstances. Id.

The gravamen of petitioners' argument for reconsideration is that we lacked jurisdiction over petitioners' taxable year 2003 "because the applicable statute of

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limitations [period of limitations for assessment of tax] had expired before the parties executed an agreement to extend it." In our Memorandum Opinion, T.C. Memo. 2017-207, at *15-*16, we found that petitioners had offered no evidence to refute that they had extended the period of limitations to assess tax for 2003 until April 30, 2009, which is after the date June 13, 2008, on which respondent mailed them the 2003 statutory notice. Respondent, in the response, makes adequate references to exhibits in evidence in this case showing petitioners' extensions of the period of limitations, see sec. 6501(c)(4), to April 30, 2009. Taking into account the 10-year general period of limitations for collection under Code section 6502(a)(1) as well as suspensions of such period under section 6330(e)(1) during the pendency of a collection due process proceeding, respondent argues that the statute of limitations period for collection of petitioners' taxable year 2003 Federal income tax liabilities has not expired. We see no fault in respondent's argument.

Petitioners have failed to show substantial error or any unusual circumstances that persuade us to reconsider any aspect of our Memorandum Opinion. It is, therefore,

ORDERED that the motion is denied.

**(Signed) James S. Halpern
Judge**

Dated: Washington, D.C.
September 25, 2018