

UNITED STATES TAX COURT
WASHINGTON, DC 20217

JOHN LOUIS ESCOVER & MARGARET)	
BELLE ESCOVER,)	
)	
Petitioners,)	
)	
v.)	Docket No. 12518-18S
)	
COMMISSIONER OF INTERNAL REVENUE,)	
)	
Respondent.)	

ORDER OF DISMISSAL

As best as can be determined from what has been submitted by the parties, the notice of deficiency (notice) determining a deficiency in petitioners' 2012 Federal income tax was not received by petitioners in time to challenge that deficiency in a proceeding commenced pursuant to section 6213(a).¹ Respondent's records show that the notice was issued to petitioners on October 2, 2015, and although the record does not contain a copy of the notice, petitioners make reference to it in a submission to the Court.

The petition in this case was received from the petitioners and filed on June 25, 2018, long after the period expired that would otherwise have allowed for a challenge to the deficiency determined in the notice. Apparently petitioners were travelling at the time the notice was issued and weren't aware that the notice had been issued until it was too late to petition the Court. The deficiency apparently results from the disallowance of the same type of deductions that petitioners claim were challenged and allowed in prior years. The document attached to the petition, which attachment is not a notice of deficiency, refers to petitioners' request for audit reconsideration, and their rejection of a settlement proposal made in response. The attachment also shows that the deficiency determined in the notice had been assessed, presumably in due course. Nothing in anything submitted by either party suggests that respondent has proposed to collect the assessed deficiency by filing a notice of Federal tax lien, or notice of intent to levy.

¹Section references are to the Internal Revenue Code of 1986, as amended.

We are satisfied from what has been submitted that petitioners initiated this proceeding in order to challenge the deficiency determined in the notice and the subsequent assessment of that deficiency. As pointed out in respondent's motion to dismiss for lack of jurisdiction, filed August 13, 2018, and supplemented on October 4, 2018, because the petition was not filed timely, or treated as timely filed, the Court is without jurisdiction over the matters raised in the petition. See secs. 6213 and 7502; Monge v. Commissioner, 93 T.C. 22 (1989). That being so, it is

ORDERED that respondent's motion, as supplemented, is granted, and this case is dismissed for lack of jurisdiction upon the ground that the petition was not timely filed.

(Signed) Lewis R. Carluzzo
Special Trial Judge

ENTERED: **FEB 12 2019**