

**UNITED STATES TAX COURT
WASHINGTON, DC 20217**

ANTHONY S. VENTURA & SUZANNE M.)	
VENTURA,)	
)	
Petitioner(s),)	
)	
v.)	Docket No. 13275-18S.
)	
COMMISSIONER OF INTERNAL REVENUE,)	
)	
Respondent)	

Order of Dismissal for Lack of Jurisdiction

This deficiency case is before the Court on respondent’s Motion to Dismiss for Lack of Jurisdiction, filed February 22, 2019. Respondent asserts that the Court lacks jurisdiction on the ground that the petition was not timely filed.

On February 11, 2013, respondent mailed to petitioners a notice of deficiency for the taxable years 2007, 2008 and 2009. There does not appear to be a dispute that respondent sent the notice by certified mail to petitioners’ correct address. On November 21, 2014 petitioners mailed to the Court a petition for redetermination in response to the notice of deficiency. The petition was filed on November 26, 2014 at Docket No. 28183-14S.

Because that petition involves the same February 11, 2013 notice of deficiency for the taxable years 2007, 2008 and 2009 we will direct the Clerk of Court to attach to this order a copy of the Order of Dismissal for Lack of Jurisdiction entered June 15, 2016. As detailed more fully in that order petitioners filed three separate bankruptcy petitions during the period December 12, 2012 through February 18, 2014. The order of dismissal entered June 15, 2016 fully explained the timing and circumstances of the various filings and concluded that the petition filed at Docket No. 28183-14S was untimely having been filed some 10 months after the expiration of the extended statutory filing period.

The petition in this docket was filed on July 6, 2018. There is no question that the petition is untimely (even as extended by the intervening bankruptcy petitions) with respect to the notice of deficiency issued on February 11, 2013.

In their opposition to respondent’s motion petitioners assert that while the IRS agreed to an audit reconsideration, the process was delayed in part by IRS utilizing an incorrect address and further because of petitioner Anthony S. Ventura’s illness. Petitioner Anthony Ventura asserts that he has undergone multiple surgeries and continues to suffer from multiple medical issues as a result of exposure to the chemical “agent orange” as a member of the military in Viet Nam.

SERVED Apr 10 2019

This Court's jurisdiction is well defined by the Internal Revenue Code and case law. Our jurisdiction is limited to the extent authorized by Congress. Naftel v. Commissioner, 85 T.C. 527, 529 (1985). While we sympathize with petitioners' ongoing difficulties we have no authority to extend the period for filing. See Axe v. Commissioner, 58 T.C. 256, 259 (1972).

Premise considered, it is hereby

ORDERED that the Clerk of the Court is directed to attach to this order a copy of the Order of Dismissal for Lack of Jurisdiction entered June 15, 2016 in Docket No. 28183-14S. It is further

ORDERED that respondent's Motion to Dismiss for Lack of Jurisdiction, filed February 22, 2019, is granted and this case is dismissed for lack of jurisdiction on the ground that the petition was not timely filed.

(Signed) Peter J. Panuthos
Special Trial Judge

ENTERED: **APR 10 2019**