

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

SNJ LIMITED, RITCHIE N. STEVENS AND	)	
JULIE A. KEENE-STEVENSON, PARTNERS	)	
OTHER THAN THE TAX MATTERS	)	
PARTNER,	)	
	)	
Petitioner(s),	)	
	)	
v.	)	Docket No. 11284-18.
	)	
COMMISSIONER OF INTERNAL REVENUE,	)	
	)	
Respondent	)	
	)	
	)	

**ORDER OF DISMISSAL FOR LACK OF JURISDICTION**

Respondent has moved that this partnership case be dismissed for lack of jurisdiction because petitioners did not file their petition within the time prescribed by section 6226(b)(1). For the reasons explained below, we will grant respondent's motion.

The unified partnership audit and litigation rules enacted by the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) and in effect before 2018 require that the tax treatment of partnership items be determined in partnership-level proceedings that are generally binding on all partners. The rules provide for the identification of a tax matters partner (TMP) who typically represents the partnership in the partnership proceeding.

If, at the conclusion of a partnership audit, the Commissioner determines that adjustments should be made to partnership items to which the partnership does not agree, the Commissioner must mail to each partner for whom he has an address a notice of final partnership administrative adjustment (FPAA). Sec. 6223(a)(2). The partnership's TMP can file with this Court (or other courts) a petition for readjustment of the partnership items. Such a petition is timely, however, only if

filed within 90 days after the mailing of the FPAA to the TMP. Sec. 6226(a). If the TMP does not file a petition for redetermination within the prescribed 90-day period, a partner other than the TMP can file such a petition within the 60-day period following the 90-day period described in section 6226(a). Sec. 6226(b)(1).

On November 1, 2017, respondent mailed FPAA's addressed to "Tax Matters Partner of SNJ, LTD" for the partnership's taxable years ended December 31, 2006 and 2008. Separate FPAA's for each year went to two different addresses, one on Troon Drive in Henderson, Nevada, and the other on Eastern Avenue in Las Vegas.

On June 7, 2018, we received from petitioners a document captioned "Petition" that requests a redetermination of deficiencies purportedly stated in attached "notices of deficiency" for SNJ, Ltd. (SNJ) for 2006 and 2008. Because petitioners did not file their petition within 150 days of November 1, 2017, respondent argues that the petition was untimely and does not give us jurisdiction in the present case.

The timeliness of petitioners' petition turns on the validity of the November 2017 FPAA's. On February 1, 2018, respondent mailed another set of FPAA's to SNJ's tax matters partner that covered the same taxable years as those sent three months earlier. Petitioners' petition would be timely in response to the second set of FPAA's. But section 6223(f) precludes the issuance of more than one FPAA for a partnership's taxable year (subject to an exception for fraud, malfeasance, or misrepresentation of a material fact). Therefore, if the November 2017 FPAA's were valid, the February 2018 FPAA's were not. See Wise Guys Holdings, LLC v. Commissioner, 140 T.C. 193 (2013).

The only allegation petitioners make in opposing respondent's motion that could call into question the validity of the November 2017 FPAA's is their claim that the notices were not properly addressed. Petitioners claim that they "have not lived in the 'Troon' address for a great number of years". (Their petition, however, avers that the Troon Drive address was their legal residence "at all times herein".) And petitioners claim that the Eastern Avenue address is a "medical facility" and not the address of SNJ's TMP. For the reasons explained below, however, we

conclude that the November 2017 FPAAAs were not invalid by reason of being improperly addressed.<sup>1</sup>

Section 6223(c)(1) requires the Commissioner, in mailing FPAAAs or other required notices to a partnership's partners, to use the names and addresses shown on the partnership's return. SNJ, however, did not file a return for either of the taxable years in issue.

In notifying partners, the Commissioner must use information in addition to that shown on the partnership's return if that information is provided in the manner specified in regulations. Sec. 6223(c)(2). Section 301.6223(c)-1, *Proced. & Admin. Regs.*, describes how additional information must be provided for the Commissioner to be obligated to consider it. Among other things, the information must take the form of a written statement signed by the person supplying it and "filed with the service center where the partnership return is filed." Sec. 6223(c)-1(b)(2) and (b)(3)(v), *Proced. & Admin. Regs.*

Although SNJ did not file a partnership return for either of the years in issue, in October 2014 and January 2016, petitioners provided respondent with an unsigned return for the partnership for 2006 and 2008, respectively. Each of those returns give the Troon Drive address as the address of the partnership and each of its partners.

Although respondent was not obligated to use the information provided on the unsigned partnership returns petitioners provided in determining where to mail the FPAAAs for the years in issue, he was permitted to do so. Because the partnership returns petitioners provided to respondent were unsigned, they did not comply with section 301.6223(c)-1, *Proced. & Admin. Regs.* (In addition, it is not clear that petitioners provided those returns to the correct service center.) But the Commissioner is allowed, though not required, to consider noncomplying information. Section 301.6223(c)-1(f), *Proced. & Admin. Regs.*, provides: "In addition to the information on the partnership return and that supplied on statements filed under this section, the Internal Revenue Service may use other

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<sup>1</sup>We have accepted the validity of FPAAAs addressed generically to a partnership's tax matters partner that do not specifically name that partner. See Chomp Assoc. v. Commissioner, 91 T.C. 1069, 1073 (1988) ("[S]ection 6223 does not require that a specific TMP be enumerated on the FPAA.").

information in its possession in administrating [the TEFRA partnership provisions of] subchapter C of chapter 63 of the Internal Revenue Code."

Respondent was also permitted to use the Eastern Avenue address because petitioners used that address in their filings in another case involving their individual income tax liability. In fact, the FPAAs attached to petitioners' petition bear the Eastern Avenue address, indicating that petitioners were able to receive mail sent to that address.

Although petitioners do not allege any irregularities in the content of the November 2017 FPAAs, respondent mailed the second set of the FPAAs "out of an abundance of caution" because of a possible irregularity. In particular, although the November 2017 FPAAs themselves gave the partnership's name as SNJ, Ltd. and provided its employer identification number (EIN), the attached schedules of adjustments named the partnership as RNS, Ltd. The schedules of adjustments do, however, use SNJ's EIN. And the adjustments are apparently based on information regarding SNJ, as indicated by the identity in amount of the adjustments on the two sets of FPAAs.

Although petitioners did not challenge the validity of the November 2017 FPAAs by reason of their misnaming of the partnership on the attached schedules of adjustments, because the issue affects our jurisdiction, we will consider it on our own initiative. See, e.g., Coca Cola Bottling Co. v. Commissioner, 22 B.T.A. 686, 699-701 (1931) (raising the issue of jurisdiction sua sponte and dismissing the case for lack of jurisdiction). For the reasons explained below, we conclude that the references to RNS, Ltd. on the schedules of adjustments do not affect the validity of the FPAAs issued in regard to SNJ.

A statutory notice of deficiency issued to an individual taxpayer is valid as long as it shows that the Commissioner determined a deficiency in that taxpayer's income tax, even if an attached schedule of adjustments names another taxpayer (and gives amounts related to that other taxpayer). See Campbell v. Commissioner, 90 T.C. 110, 113-114 (1988). And the standards governing the validity of an FPAA are less exacting than those governing the validity of a statutory notice of deficiency. E.g., Chomp Assoc. v. Commissioner, 91 T.C. 1069, 1074 (1988). A valid FPAA need only provide "'minimal' notice" that the Commissioner "has finally determined adjustments to the partnership return." Triangle Inv'rs L.P. v. Commissioner, 95 T.C. 610, 613 (1990). A notice of deficiency analogous to the November 2017 FPAAs at issue--one that enclosed a schedule of adjustments pertaining to the taxpayer in question but giving the name

of a different taxpayer--would be valid under Campbell. Therefore, a fortiori, the November 2017 FPAA's satisfy the less exacting "minimal notice" test.

Leaving aside the defects in the form of petitioners' petition, because they did not file it within 150 days after the date on which respondent mailed to SNJ's tax matters partner the only valid FPAA's covering the taxable years in issue, their petition was untimely. Consequently, we do not have jurisdiction over the present case.

On the premises stated, it is

ORDERED, that respondent's motion to dismiss is granted, and this case is dismissed for lack of jurisdiction.

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

Entered: **NOV 21 2019**