

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

SHEILA LYNNE ROSENTHAL & SHERI LYN )		
HOLBROOK, )	)	
	)	
Petitioners, )	)	
	)	
v. )	)	Docket No. 18392-19S.
	)	
COMMISSIONER OF INTERNAL REVENUE, )	)	
	)	
Respondent )	)	

**ORDER OF DISMISSAL FOR LACK OF JURISDICTION**

By Order To Show Cause, dated December 26, 2019, the Court directed the parties to show cause why this case should not be dismissed for lack of jurisdiction on the ground that the petition was not timely filed. On January 16, 2020, respondent filed a Response to the order to show cause, asserting that the petition was untimely because it was not filed within 90 days after the mailing of the notice of deficiency. Respondent attached to the Response a copy of the Certified Mail List as evidence of the fact that the notice of deficiency was sent to petitioners by certified mail on May 22, 2019. The last day to petition the Tax Court was August 20, 2019. The petition was filed on October 9, 2019, which is 50 days after the last day to petition the Tax Court. The petition was received by the Court in an envelope with a return address of the Internal Revenue Service in Laguna Niguel, California, indicating that the petition was first mailed to the Internal Revenue Service before it was received by the Tax Court. Petitioners cannot avail themselves of the timely mailing provisions of I.R.C. section 7502, because, in order for the timely mailing provisions to apply, the envelope containing the petition must be properly addressed to the Tax Court in Washington, D.C., and bear a postmark with a date that is on or before the last date for timely filing a petition. See I.R.C. sec. 7502(a)(2). On January 15, 2020, petitioners filed a Response to the order to show cause, in which they argued that I.R.C. section 6213(a) is not jurisdictional and is subject to equitable tolling. On June 26, 2020, petitioners filed a Status Report, in which they state that they no longer object to the order to show cause issued in this case being made absolute and the Court

**SERVED Jun 29 2020**

dismissing this case for lack of jurisdiction as untimely filed. The record establishes that the petition was not timely filed.

Upon due consideration, it is

ORDERED that the Court's Order To Show Cause, dated December 26, 2019, is hereby made absolute. It is further

ORDERED that, on the Court's own motion, this case is dismissed for lack of jurisdiction on the ground that the petition was not timely filed as to tax year 2016.

**(Signed) Maurice B. Foley  
Chief Judge**

ENTERED: **JUN 29 2020**