

UNITED STATES TAX COURT

RICHARD [REDACTED],)	
)	
Petitioner,)	
)	
v.)	Docket No. [REDACTED]-12L
)	
COMMISSIONER OF INTERNAL REVENUE,)	Filed Electronically
)	
Respondent.)	

RESPONDENT'S RESPONSE TO PETITIONER'S OBJECTION TO MOTION TO DISMISS FOR LACK OF JURISDICTION

Pursuant to the Order of the Court dated [REDACTED], 2012, respondent hereby responds to Petitioner's Objection to respondent's Motion To Dismiss For Lack Of Jurisdiction as more fully set forth below:

1. This case should be dismissed for lack of jurisdiction. No notice of determination concerning collection action or any other determination regarding petitioner's 2007 or 2008 taxable years was made by respondent that could now confer jurisdiction upon this Court. Petitioner did not receive the Final Notice of Intent to Levy and Notice of Your Right to a Hearing (Letter 1058) and he did not request a Collection Due Process hearing. Respondent's records do not indicate that a notice of determination was issued with respect to the unpaid liabilities at issue.

2. Respondent concedes that the petitioner conveyed a

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clear and concise change of address to respondent prior to and/or during the audit examination for the years at issue but respondent failed to update his INOLE computer records regarding petitioner's last known address when respondent issued the Final Notice of Intent to Levy and Notice of Your Right to a Hearing (Letter 1058) to collect the unpaid 2007 and 2008 income tax liabilities on [REDACTED], 2011.

3. Since the above-referenced Final Notice of Intent to Levy and Notice of Your Right to a Hearing ("Letter 1058") was not sent to petitioner's last known address, [REDACTED] #410, Lancaster, California 93530, respondent has initiated steps to: (1) release the notice of levy for the 2007 and 2008 years at issue; 2) manually refund any monies collected on account of the levy for the years at issue; 3) rescind issuance of the Letter 1058 dated December 26, 2011; and 4) change his records reflecting petitioner's last known address. Respondent is hopeful that he will effectuate enumerated steps 1) through 3) within thirty (30) days from service of this response. There is currently a collection freeze on petitioner's 2007 and 2008 income tax accounts. Rescission of the issuance of Letter 1058 will require respondent to issue a new Letter 1058 if he desires to continue to collect on the unpaid 2007 and 2008 income tax liabilities. The rescission of the Letter 1058 does not affect

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respondent's right to offset overpayment against the unpaid liabilities at issue.

4. The underlying income tax assessments for the 2007 and 2008 years remain valid because the statutory notice of deficiency was sent to petitioner's address at ~~2010 West Avenue~~
~~W RMP 640, Lancaster, California 93534~~. A copy of the statutory notice of deficiency for the years at issue and the certified mail list are attached hereto as redacted Exhibits A and B, respectively.

5. The above-referenced notice of deficiency sent to ~~XXXX~~
~~West Avenue W RMP 640, Lancaster, California 93534~~ was not returned to respondent.

6. As more fully set forth in respondent's motion to dismiss for lack of jurisdiction, petitioner did not timely file his petition with respect to the statutory notice of deficiency for the 2007 and 2008 tax years.

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7. The granting of respondent's motion to dismiss this case for lack of jurisdiction is warranted.

[REDACTED]
Chief Counsel
Internal Revenue Service

Date: [REDACTED] 2012

By: [REDACTED]

[REDACTED]
General Attorney
(Small Business/Self-Employed)

[REDACTED]

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