

UNITED STATES TAX COURT
 WASHINGTON, DC 20217

STEPHANIE ANN HACKASH & ROBERT)
 MICHAEL HACKASH,)
)
 Petitioners,)
)
 v.) Docket No. 2406-19S.
)
 COMMISSIONER OF INTERNAL REVENUE,)
)
 Respondent.)

ORDER

The petition in this case was filed on February 1, 2019. Petitioners seek review of the notice of deficiency dated October 22, 2018, issued to them for taxable year 2016. Attached to the petition is a copy of that October 22, 2018, deficiency notice issued to petitioners for 2016. That deficiency notice states that the last day to file a timely Tax Court petition as to that notice would expire on January 22, 2019. The petition, filed February 1, 2019, arrived at the Court in a FedEx Express shipping envelope bearing a FedEx Express Saver label with a ship date "30JAN19". By Order dated April 15, 2019, we, among other things, directed petitioners and respondent each to show cause why the Court should not dismiss this case for lack of jurisdiction on the ground the petition was not timely filed.

On May 3, 2019, petitioners filed their Response to Order Dated 04/15/2019. Among other things, in their Response petitioners state/indicate that: (1) on January 16, 2019, during the partial government shutdown, petitioners shipped via FedEx Standard Overnight to the Tax Court in Washington, D.C., their petition for redetermination of their proposed 2016 tax liability; (2) FedEx several times unsuccessfully tried to deliver that shipping package to the Tax Court, once on January 17, 2019, a second time on January 18, 2019, and a third time on January 22, 2019;¹ (3) on January 24, 2019, FedEx attempted to return that shipping

¹The Tax Court resumed its operations on January 28, 2019, after the government shutdown ended.

package to petitioners; and (4) on January 30, 2019, petitioners arranged to have their Tax Court petition reshipped by FedEx to the Tax Court in Washington, D.C. On May 6, 2019, respondent filed his Response to Order Dated 04/15/2019. In his Response respondent agrees with petitioners that their Tax Court petition as to the October 22, 2019, deficiency notice for 2016 was timely mailed/timely filed with the Court on January 16, 2019. Attached as Exhibit B to respondent's Response is tracking history which respondent obtained from the FedEx electronic database with respect to the January 16, 2019, FedEx Standard Overnight shipping package bearing that petition.

I.R.C. section 7502(f) governs the treatment of private delivery services under section 7502. It provides that the sending of a petition by a designated private delivery service may be treated as timely mailed. In Notice 2016-30, 2016-18 I.R.B. 676,² the Commissioner includes FedEx Standard Overnight among designated private delivery services. See I.R.C. sec. 7502(f)(2); sec. 301.7502-1(c)(3), *Proced. & Admin. Regs.* As respondent further notes, Notice 2016-30 further provides that, under section 7502(f)(1), the date recorded by FedEx to its electronic data base or the date marked by FedEx on the cover of the item is treated as the postmark for purposes of section 7502. Accordingly, the Court concludes and agrees with the parties that the petition in this case was timely mailed/timely filed with the Court.

Upon due consideration, it is

ORDERED that the Order to Show Cause, dated April 15, 2019, is discharged.

(Signed) Maurice B. Foley
Chief Judge

Dated: Washington, D.C.
May 8, 2019

²Notice 2016-30 is effective April 11, 2016.