



Court within 90 days, or 150 days if the notice is addressed to a person outside the United States, after the notice of deficiency is mailed (not counting Saturday, Sunday, or a legal holiday in the District of Columbia as the last day). If a petition is timely mailed, it will be considered timely filed. See I.R.C. sec. 7502(a)(1). In order for the timely mailing/timely filing provision 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). The Court has no authority to extend this 90 day (or 150 day) period. Joannou v. Commissioner, 33 T.C. 868, 869 (1960).

In the present case, the time for filing a petition with the Court for tax year 2016 expired on July 8, 2019. However, the petition was not filed within that 90 day period.

On January 21, 2020, petitioner filed a Response to respondent's motion to dismiss. In her Response, petitioner does not dispute respondent's jurisdictional allegations. Instead, petitioner argues the merits of her case.

The record reflects that the petition in this case was not timely filed as to the notice of deficiency issued to petitioner for tax years 2016. The record further reflects that no notice of deficiency for tax years 2017 and 2018 nor any notice of determination was issued to petitioner for tax years 2016 through 2018 that would confer jurisdiction upon this Court.

Petitioner has failed to affirmatively establish that this Court has jurisdiction in this case. Romann v. Commissioner, 111 T.C. at 280; Wheeler's Peachtree Pharmacy, Inc. v. Commissioner, 35 T.C. at 180. Accordingly, we will grant respondent's motion and dismiss this case for lack of jurisdiction.

The fact that the Court is obliged to dismiss this case for lack of jurisdiction does not preclude the parties from administratively resolving the deficiency issues if they are able to do so. In addition, if financially feasible, petitioner may pay the tax, file a claim for refund with the Internal Revenue Service, and if the claim is denied, sue for a refund in Federal district court or the U.S. Court of Federal Claims. See McCormick v. Commissioner, 55 T.C. 138, 142 (1970).

Upon due consideration, it is

ORDERED that respondent's Motion To Dismiss for Lack of Jurisdiction is granted and this case is dismissed for lack of jurisdiction.

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

ENTERED: **MAR 11 2020**