



United States Tax Court

Washington, DC 20217

Angel Villavicencio & Ignacia F. Villavicencio

Petitioners

v.

Commissioner of Internal Revenue

Respondent

Docket No. 10646-20S

ORDER TO SHOW CAUSE

This case is calendared for trial during the Court's June 14, 2021, New York, New York, remote trial session. The petition in this case was filed on July 16, 2020. That petition, dated July 8, 2020, seeks review of the notice of deficiency dated March 16, 2020, issued to petitioners for taxable year 2017. A copy of that March 16, 2020, deficiency notice for 2017 is attached to that petition. The petition, received and filed July 16, 2020, arrived at the Court in a UPS shipping envelope bearing a UPS Ground Shipping label. An examination of the petition and the March 16, 2020, deficiency notice attached thereto, suggests the petition here may not have been timely filed. I.R.C. secs. 6213(a), 7502(f); Brown v. Commissioner, 78 T.C. 215, 220 (1982); Rackowski v. Commissioner, T.C. Memo. 2007-12 (holding timely mailing/timely filed rule of section 7502 does not apply to UPS Ground service because it is not a designated delivery service); Rule 13(c), Tax Court Rules of Practice and Procedure; IRS Notice 2020-23. If that is the case, this Court would lack jurisdiction to redetermine a deficiency in petitioners' income tax for 2017.

Accordingly, it is

ORDERED that this case is stricken from the above-referenced trial session, and the parties are excused from appearing at the calendar call on June 14, 2021. It is further

ORDERED that jurisdiction is retained by this Division of the Court. It is further

ORDERED that, on or before June 21, 2021, respondent shall file a Response to this order and attach thereto, a postmarked Postal Service Form 3877, or other sufficient evidence, showing the Internal Revenue Service sent the deficiency notice for 2017 by certified or registered mail to petitioners at their last known address on or about March 16, 2020. It is further

ORDERED that, on or before June 21, 2021, petitioners and respondent each shall show cause, in writing, why the Court should not dismiss this case for lack of jurisdiction on the ground the petition was not timely filed.

**(Signed) Travis A. Greaves
Judge**

Served 05/24/21