

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

POWERHOUSE MORTGAGE)	
CORPORATION,)	
)	
Petitioner,)	
)	
v.)	Docket No. 16248-18 L.
)	
COMMISSIONER OF INTERNAL REVENUE,)	
)	
Respondent)	
)	
)	
)	
)	

ORDER AND ORDER OF DISMISSAL FOR LACK OF JURISDICTION

The petition commencing the above-docketed proceeding was filed on August 20, 2018, and referenced 2015 and 2016 as the years in dispute. Attached to the petition was a notice of determination concerning collection action dated July 17, 2018, issued to petitioner with respect to the 2015 and 2016 taxable years. The petition had been received by the Court in an envelope sent by FedEx Express Standard Overnight and bearing a ship date of August 17, 2018. An answer to the petition followed on October 9, 2018, but did not address jurisdictional matters.

Nonetheless, because review of the record suggested a fundamental jurisdictional defect, the Court by Order dated October 12, 2018, directed the parties, on or before November 2, 2018, to show cause in writing why this case should not be dismissed for lack of jurisdiction, on the ground that the petition was not filed within the time prescribed by section 6330(d) or 7502, I.R.C. The Order further noted that the date of the notice of determination underlying this proceeding indicated a statutory deadline for filing a petition pursuant to section 6320(c), 6330(d), or 7502 of the Internal Revenue Code (I.R.C.) that expired on August 16, 2018.

Shortly thereafter and in lieu of a response, respondent on October 17, 2018, filed a Motion To Dismiss for Lack of Jurisdiction on the identical ground of an untimely petition. Therein, respondent reiterated, and provided supporting documentation in the form of a certified mail receipt to establish, that the notice of determination was mailed on July 17, 2018. At that juncture petitioner was afforded additional time, until November 9, 2018, to object to respondent's motion as well.

SERVED Nov 29 2018

In a case seeking review of a determination under section 6320 or 6330, I.R.C., the jurisdiction of the Court depends, in part, on the timely filing of a petition by the taxpayer. Rule 330(b), Tax Court Rules of Practice and Procedure; Weber v. Commissioner, 122 T.C. 258 (2004); McCune v. Commissioner, 115 T.C. 114 (2000). In this regard, section 6330(d)(1), I.R.C., specifically provides that the petition must be filed with the Tax Court within 30 days of mailing the determination. The Court has no authority to extend this 30-day period. Weber v. Commissioner, 122 T.C. at 263; McCune v. Commissioner, 115 T.C. at 117-118. However, if the conditions of section 7502, I.R.C., are satisfied, a petition which is timely mailed may be treated as having been timely filed.

The premises considered, it is

ORDERED that the Court's Order To Show Cause, dated October 12, 2018, is hereby made absolute. It is further

ORDERED that respondent's Motion To Dismiss for Lack of Jurisdiction, filed November 17, 2018, is granted, and this case is dismissed for lack of jurisdiction.

(Signed) Maurice B. Foley
Chief Judge

ENTERED: **NOV 29 2018**