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United States Court of Appeals For the First Circuit

No. 03-1688

PATRICK E. RUDD,

Petitioner,

v.

COMMISSIONER OF INTERNAL REVENUE SERVICE,

Respondent.

APPEAL FROM THE UNITED STATES TAX COURT

Before

Lynch, Lipez and Howard,
Circuit Judges.

Patrick Edwin Rudd on brief pro se.

Robert L. Baker, Attorney, Tax Division, Department of Justice, Frank P. Cihlar, Attorney, Tax Division, Department of Justice, and Eileen J. O'Connor, Assistant Attorney General, on brief for appellee.

February 24, 2004

Per Curiam. Patrick E. Rudd has appealed an order of the United States Tax Court that dismissed his petition, purportedly filed pursuant to 26 U.S.C. § 6330(d), for lack of jurisdiction. We review, de novo, legal interpretations of the Tax Court, such as this jurisdictional determination. See Capitol Video Corp. v. Comm'r, 311 F.3d 458, 463 (1st Cir. 2002). We affirm.

We conclude that the Tax Court correctly ruled that its jurisdiction under § 6330(d) depends upon the issuance of a valid notice of determination by the IRS's Office of Appeals and the filing of a timely petition for review. This jurisdictional ruling is in accord with the statutory language of § 6330(d) and is consistent with prior tax court rulings and the Tax Court Rules of Practice and Procedure. See, e.g., Moorhous v. Comm'r, 116 T.C. 263, 269 (2001); Rule 330(b). Rudd makes no cogent opposing argument. Because the respondent Commissioner has not issued any notice of determination with respect to Rudd's tax liability for 1989, the Tax Court correctly dismissed Rudd's petition for lack of jurisdiction.

The order of dismissal is affirmed.