

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 09-3054

Mary H. Landes,

Appellant,

v.

Commissioner of Internal Revenue,

Appellee.

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* Appeal from the
* United States Tax Court.
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* [UNPUBLISHED]
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Submitted: March 31, 2010

Filed: April 6, 2010

Before RILEY,¹ Chief Judge, BYE and SHEPHERD, Circuit Judges.

PER CURIAM.

Mary Landes appeals from a decision of the tax court² dismissing this matter for lack of jurisdiction. Upon de novo review, see Arkansas Oil and Gas, Inc. v. Comm’r, 114 F.3d 795, 798 (8th Cir. 1997), we hold that Landes did not meet her burden of establishing that the tax court had jurisdiction over her motion to restrain assessment or collection, see Page v. Comm’r, 297 F.2d 733, 734 (8th Cir. 1962)

¹The Honorable William Jay Riley became Chief Judge of the United States Court of Appeals for the Eighth Circuit on April 1, 2010.

²The Honorable Peter J. Panuthos, United States Tax Court Judge.

(taxpayer bears burden of proving that tax court has jurisdiction). She failed to petition for review of the tax year 2003 notice of deficiency or to request a hearing regarding the notices of intent to levy, and she agreed that she had not obtained a notice of determination. As a result, the tax court lacked jurisdiction over her motion to restrain assessment or collection. See 26 U.S.C. §§ 6213(a), 6330(e); Tax Ct. R. 55; Offiler v. Comm’r, 114 T.C. 492, 497-98 (2000) (where taxpayer received only one notice of intent to levy and made no request for hearing, court issued no notice of determination, which is equivalent of notice of deficiency; tax court’s jurisdiction under § 6330 is dependent on issuance of valid notice of determination and timely petition for review; absence of appeals determination under § 6330 is ground for dismissal for lack of jurisdiction of petition that purports to be based on § 6330); Robinson v. Comm’r, T.C. Memo 1998-179, 1998 WL 237783 at *5 (1998) (tax court lacked jurisdiction over tax year at issue if no notice of deficiency was issued; no jurisdiction to enjoin assessment or collection of deficiency if respondent’s collection efforts relate to taxable year over which tax court has no jurisdiction). Accordingly, we affirm. See 8th Cir. R. 47B.
