

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

ROBERT CASH and GLADYS CASH,
Plaintiffs,

v.

UNITED STATES OF AMERICA
Defendant.

1:15-cv-2439

Hon. John E. Jones III

ORDER

March 20, 2019

In conformity with the memorandum filed on this date, it is hereby

ORDERED:

1. The Report and Recommendation of Magistrate Judge Saporito, (Doc. 49), is **ADOPTED** in its entirety.
2. Defendant's Motion to Dismiss, (Doc. 43), is **GRANTED**.
 - a. Plaintiffs' tax refund claims with respect to tax years 2016 and 2017 are **DISMISSED without prejudice** for lack of subject matter jurisdiction pursuant to Rule 12(b)(1) of the Federal Rules of Civil Procedure and
 - b. Plaintiffs' tax refund claims with respect to tax years 2014 and 2015 are **DISMISSED with prejudice** for failure to state a claim upon which relief can be granted pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure.

3. Plaintiffs' cross Motion for Summary Judgment, (Doc. 33), is **DENIED as moot.**
4. The Clerk of Court **SHALL CLOSE** the file on this case.

s/ John E. Jones III
John E. Jones III
United States District Judge