

December 1, 2009

UNITED STATES COURT OF APPEALS
TENTH CIRCUIT

Elisabeth A. Shumaker
Clerk of Court

DEBORAH GHANI,

Petitioner - Appellant,

v.

COMMISSIONER OF INTERNAL
REVENUE,

Respondent - Appellee.

No. 09-9005

(United States Tax Court)

(Tax Court No. 19615-08)

ORDER AND JUDGMENT*

Before **HARTZ, SEYMOUR,** and **ANDERSON,** Circuit Judges.

After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist in the determination of this appeal. See Fed. R. App. P. 34(a)(2); 10th Cir. R. 34.1(G). The case is therefore ordered submitted without oral argument.

Deborah Ghani, proceeding *pro se*, appeals the Tax Court’s order:

(1) granting the Commissioner of the Internal Revenue Service’s motion to

*This order and judgment is not binding precedent except under the doctrines of law of the case, res judicata, and collateral estoppel. It may be cited, however, for its persuasive value consistent with Fed. R. App. P. 32.1 and 10th Cir. R. 32.1.

dismiss for lack of jurisdiction; (2) dismissing her case on the ground that no notice of determination was sent to Ms. Ghani; and (3) denying Ms. Ghani's motion to restrain assessment. We affirm.

The Tax Court properly concluded that it lacked jurisdiction because Ms. Ghani was never issued a Notice of Deficiency or a Notice of Determination. See 26 U.S.C. §§ 6213, 6330; Abrams v. Comm'r, 814 F.2d 1356, 1357 (9th Cir. 1987) (per curiam) (holding that a pre-filing notification letter from the Internal Revenue Service was not a Notice of Deficiency and therefore, the Tax Court had no jurisdiction over the taxpayer's petition); see also Tuka v. Comm'r, No. 09-1598, 2009 WL 3236066, at *1-2 (3rd Cir. 2009) (unpublished) (“[T]he lock-in letter . . . does not constitute a notice of determination.”); Davis v. Comm'r, T.C. Memo. 2008-238, 2008 WL 4703706, at *7 (2008) (“[A] lock-in letter is not a levy.”).

We have examined all of Ms. Ghani's arguments and find them unpersuasive.¹

AFFIRMED.

ENTERED FOR THE COURT

Stephen H. Anderson
Circuit Judge

¹The motion to file reply brief out of time is granted, and the panel has taken the brief into consideration.