

NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 25-2356

SYLVESTER TUOHY; YONGJIE TUOHY,
Appellants

v.

COMMISSIONER OF INTERNAL REVENUE SERVICE

On Appeal from the United States Tax Court
(T.C. No. 2330-25L)
Tax Court Judge: Honorable Kathleen Kerrigan

Submitted Pursuant to Third Circuit LAR 34.1(a)
February 2, 2026

Before: HARDIMAN, FREEMAN, and ROTH, *Circuit Judges*

(Opinion filed: October 14, 2026)

OPINION*

PER CURIAM

Sylvester and Yongjie Tuohy appeal from orders of the Tax Court dismissing their petition for lack of jurisdiction and declining to vacate that ruling. We will affirm.

* This disposition is not an opinion of the full Court and pursuant to I.O.P. 5.7 does not constitute binding precedent.

“The Tax Court is a court of limited jurisdiction possessing only such jurisdiction as is expressly conferred by Congress.” *Sunoco Inc. v. Comm’r*, 663 F.3d 181, 187 (3d Cir. 2011). In this case, the Tuohys filed pro se a petition with the Tax Court seeking review of issues relating to their tax liability for tax year 2022. They purported to seek review of both a “notice of deficiency” and a “notice of determination concerning collection action” issued for that year. But they did not attach any such documents, and the Commissioner found no record of having issued them. Thus, the Commissioner filed a motion to dismiss the Tuohys’ petition for lack of jurisdiction on the ground that they did not validly invoke the Tax Court’s limited jurisdiction. The Tax Court agreed and dismissed the petition, and it later denied the Tuohys’ motion to vacate that ruling.

The Tuohys appeal. We have jurisdiction under 26 U.S.C. § 7482(a)(1), and we review de novo the Tax Court’s ruling that it lacked subject-matter jurisdiction. *See Sunoco*, 663 F.3d at 185. Having done so, we will affirm.

The Tuohys asserted two potential grounds for Tax Court jurisdiction, but neither applies. First, they purported to seek review of a notice of deficiency, which is the “principal basis” for the Tax Court’s jurisdiction. *Id.* at 187 (citing 26 U.S.C. § 6213(a)). But the Tuohys did not claim to have received any notice of deficiency. Instead, they relied on and sought review of a form CP11 in which the IRS notified them that it had recalculated their tax liability for 2022 by correcting various errors. *See McCauley v. Comm’r*, 107 T.C.M. (CCH) 1233, No. 956-11, 2014 WL 988466, at *1 n.2 (T.C. Mar. 13, 2014) (“A CP11 is a notice the IRS uses to inform a taxpayer of an amount due as a result of mathematical or clerical errors on a return.”). The CP11 itself is not a

reviewable notice of deficiency and does not otherwise give rise to Tax Court jurisdiction. *See* 26 U.S.C. § 6213(b)(1) (“If the taxpayer is notified that, on account of a mathematical or clerical error appearing on the return, an amount of tax in excess of that shown on the return is due . . . such notice shall not be considered as a notice of deficiency for purposes of subsection (a) . . . and the taxpayer shall have no right to file a petition with the Tax Court based on such notice[.]”). The CP11 instead merely advised the Tuohys of the recalculation and the steps they could take to challenge it. Those steps, which included contacting the IRS by phone, might have led to issuance of a reviewable notice of deficiency. But the Tuohys do not appear to have followed those steps or to have obtained a notice of deficiency. To the contrary, as they conceded both in the Tax Court and now in their brief on appeal, they filed their Tax Court petition because they tried to call the IRS “many times” but did not want to wait the 30 to 60 minutes they claim it would have taken to get through. Aggravating as that circumstance might be, it does not allow the Tuohys to circumvent the statutory prescribed grounds for the Tax Court’s jurisdiction.

Second, the Tuohys claimed to seek review of a notice of determination concerning collection action. *See* 26 U.S.C. § 6330(d)(1) (conferring jurisdiction on the Tax Court to review “a determination under this section”). But once again, they did not attach and do not appear to have received any such notice. Instead, they relied on a form CP504 in which the IRS notified them that it intended to levy on their property to satisfy their tax liability. As the Commissioner argues, issuance of that form is but one step in the process that might have led to a reviewable notice of determination. *See generally*

§ 6330(a) and (b) (outlining the process for obtaining a hearing and then a reviewable notice of determination). And like the CP11, the form CP504 itself does not support Tax Court jurisdiction. *See, e.g., Cleveland v. Comm’r*, 600 F.3d 739, 741 (7th Cir. 2010) (per curiam) (holding that the Tax Court lacked jurisdiction under § 6330(d)(1) to review a collection-related letter because it was not a notice of determination).

Thus, the Tax Court properly held that the Tuohys did not invoke its jurisdiction under §§ 6213(a) or 6330(d)(1). The court also properly held that the Tuohys did not otherwise invoke its jurisdiction. For these reasons we will affirm the court’s dismissal of the Tuohys’ petition and its refusal to vacate that ruling.