

UNITED STATES TAX COURT
WASHINGTON, DC 20217

MARTIN WILLIAM JOYCE,)	
)	
Petitioner,)	
)	
v.)	Docket No. 1016-19.
)	
COMMISSIONER OF INTERNAL REVENUE,)	
)	
Respondent)	

ORDER

This case was previously set for trial at the Court’s June 8, 2020, session scheduled to take place in Tampa, Florida. As a result of the coronavirus pandemic, that trial session was cancelled.

After cancellation of that session, Mr. Joyce filed a motion in which he asked the Court to dismiss his case “without prejudice.” Black’s Law Dictionary defines a dismissal without prejudice as “[a] dismissal that does not bar the plaintiff from refile the lawsuit within the applicable limitations period.” Black’s Law Dictionary 537 (9th ed. 2009). It defines a case that is dismissed without prejudice as one that is “removed from the court’s docket in such a way that the plaintiff may refile the same suit on the same claim.” *Id.* This does not describe the effect a dismissal would have in this case. If we dismiss this case, by law, that dismissal would be treated as a determination that the Commissioner’s adjustments as set forth in the notice of deficiency are correct. *See* sec. 7459(d).

If Mr. Joyce wishes to concede his case, he may enter into a stipulated decision with the Commissioner agreeing to the adjustments, or he may refile his motion to dismiss, making clear that he intends that the dismissal would be with prejudice. But, because we cannot grant the relief he seeks in his pending motion, it is

ORDERED that Mr. Joyce’s motion to dismiss without prejudice filed July 14, 2020, is denied.

(Signed) Ronald L. Buch
Judge

Dated: Washington, D.C.
July 30, 2020

SERVED Jul 31 2020