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**Tax Court Unanimously Rules Main Petition Deadline Is Strict**

By Aysha Bagchi

Nov. 29, 2022, 5:15 PM

Bloomberg Law News 2022-11-30T09:11:47457732497-05:00

Tax Court Unanimously Rules Main Petition Deadline Is Strict

By Aysha Bagchi 2022-11-29T17:15:31000-05:00

The deadline to challenge IRS tax bills at the US Tax Court can't be extended, even in special circumstances, the court ruled Tuesday.

The court was addressing whether a deadline of 90 days for US residents—150 days for taxpayers living abroad—for challenging IRS notices of deficiency was “jurisdictional.” When a deadline is jurisdictional, the court doesn't have jurisdiction to hear a late-filed case, no matter the reason for the lateness.

The deadline at issue, which is housed under tax code Section 6213(a), applied to more than 96% of the cases filed at the Tax Court in fiscal year 2021, according to a court report justifying its 2023 fiscal year budget.

The US Supreme Court ruled in April in *Boechler, P.C. v. Commissioner* that a separate Tax Court deadline, dealing with IRS property seizure cases, is not only non-jurisdictional, but also subject to equitable tolling—meaning it can be paused when there are equitable reasons for doing so. Many have questioned whether that ruling would lead the court system to also treat the commonly applicable deficiency deadline as non-jurisdictional and subject to equitable tolling.

Hallmark Research Collective, the taxpayer that missed the 90-day deadline by a single day, argued that the Supreme Court's reasoning in *Boechler* compelled a similar conclusion about the deficiency deadline. The Supreme Court said in *Boechler* that a court deadline isn't jurisdictional unless Congress clearly states that it is.

The Tax Court ruled Tuesday that the Supreme Court's clear-statement rule was met when it came to the deficiency deadline.

“Over nearly a hundred years of reenactments and amendments of section 6213(a), Congress has left substantially unchanged the wording of its jurisdictional grant, and Congress's additions to section 6213(a) have clarified that its deadline is jurisdictional,” wrote Senior Judge David Gustafson.

“The appendix attached to this Opinion includes a chronological listing of each enactment, reenactment, and amendment, relevant legislative history, and citations of caselaw, in order to demonstrate the volume of uniform, uncontradicted authority,” he added.

Gustafson's opinion was reviewed and joined by all the regular judges on the court.

James Mann of Lucosky Brookman LLP represented Hallmark Research Collective. He said they were studying their options for appeal.

“It is disappointing to people who are sympathetic to low-income taxpayers” in particular, Mann said, because it's most often low-income taxpayers who “do not have the resources to meet the complex requirements of the tax system and would be the most likely candidates for an equitable tolling hearing.”

The IRS didn't immediately respond to a request for comment.

The case is Hallmark Research Collective v. Commissioner, T.C., No. 21284-21, 11/29/22.

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