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U.S. Supreme Court: 30-day time limit to petition for review of collection determination subject to equitable tolling

The U.S. Supreme Court today in a unanimous decision held that the 30-day time limit to file a petition for review of a collection due process determination in section 6330(d)(1) is a nonjurisdictional deadline subject to equitable tolling.

The case is: *Boechler, P.C. v. Commissioner*, No. 20-1472 (S. Ct. April 21, 2022). Read the Court's [opinion](#) [PDF 109 KB].

Summary

The IRS in 2015 notified the taxpayer, a North Dakota law firm, of a discrepancy in its tax filings. When the taxpayer did not respond, the IRS assessed an “intentional disregard” penalty and notified the taxpayer of its intent to levy the taxpayer’s property to satisfy the penalty, in accordance with sections 6330(a) and 6721(a)(2), and (e)(2)(A).

The taxpayer requested and received a “collection due process hearing” before the IRS’s Independent Office of Appeals under section 6330(b), but the office sustained the proposed levy. Under section 6330(d)(1), the taxpayer had 30 days to petition the Tax Court for review.

The taxpayer filed its petition one-day late. The taxpayer asserted that it would be unfair to dismiss the petition, arguing for an equitable tolling exception. Equitable tolling is a traditional feature of U.S. jurisprudence and a background principle against which Congress drafts limitations periods. The Tax Court nevertheless dismissed the petition for lack of jurisdiction and the Eighth Circuit affirmed, agreeing that the 30-day filing deadline under section 6330(d)(1) is jurisdictional and thus cannot be equitably tolled.

The Supreme Court today reversed the Eighth Circuit, holding that the 30-day time limit under section 6330(d)(1) to file a petition for review of a collection due process determination is an ordinary, non-jurisdictional deadline subject to equitable tolling. The Court reasoned that section 6330(d)(1) did not

satisfy the “clear statement” standard required to find a deadline is jurisdictional rather than an ordinary claims-processing rule.

KPMG observation

This case is the most recent in a series of Supreme Court cases re-examining the boundary between jurisdictional requirements and claims-processing rules. Claims-processing rules may be waived, but jurisdictional rules may not, since jurisdictional rules limit the subject matter jurisdiction of the court.

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