



TaxNewsFlash

United States



No. 2022-359
November 29, 2022

U.S. Tax Court: 90-day time limit to file deficiency petition is jurisdictional deadline not subject to equitable tolling

The U.S. Tax Court today unanimously held that the 90-day time limit under section 6213(a) to file a deficiency petition is a jurisdictional deadline, and thus not subject to equitable tolling.

The case is: *Hallmark Research Collective v. Commissioner*, 159 T.C. No. 6 (November 29, 2022). Read the Tax Court's [opinion](#) [PDF 455 KB]

Summary

The Tax Court previously ordered dismissal of the case for lack of jurisdiction because the taxpayer's petition was filed late for purposes of section 6213(a)—i.e., not 90 but 91 days after the IRS mailed its notice of deficiency.

After the Supreme Court unanimously decided *Boechler, P.C. v. Commissioner*, 142 S. Ct. 1493 (2022), the taxpayer moved to vacate the Tax Court's dismissal on the grounds that the deadline to file a deficiency petition is a non-jurisdictional statute of limitations subject to equitable tolling.

The Tax Court refused to vacate the dismissal, finding that the "text, context, and relevant historical treatment" of section 6213(a) confirm Congress's intention that the deadline to file a deficiency petition be jurisdictional and thus not subject to equitable tolling.

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