

Filing Deadlines in Tax Cases

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Policy Considerations

- Consequences of “jurisdictional” versus “claims processing” label suggest a narrow, closely scrutinized approach
- Expansive reach and impact of the tax system
 - Automated underreporting, matching and generation of more than 1 million tax deficiency notices each year
- “Last known address” and other notice challenges
- Short and consequential filing deadlines in many tax statutes
- Frequency of small dollar, unrepresented cases
- Judicial resource considerations
- Congress as the ultimate arbiter, drafting against a new judicial landscape

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Equitable Tolling for Tax Filing Deadlines

- Missed statutory filing deadlines characterized as “claims processing,” rather than “jurisdictional” can open the door for equitable tolling arguments on why the deadlines should be extended
- This does not mean, however, that equitable tolling applies; taxpayers still face two hurdles in invoking a statutory time period exception:
 - The statute must be subject to equitable tolling; and
 - The specific facts and circumstances of the taxpayer’s case must warrant application of equitable tolling

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Tightening the “Jurisdictional” Label

- *Kontrick v. Ryan* (S. Ct. 2004)
 - Directs that the “jurisdictional” characterization be limited to subject matter and personal jurisdiction, not “claims processing rules that do not delineate what cases . . . courts are competent to adjudicate.”
- *Arbaugh v. Y.H. Corp.* (S. Ct. 2006)
 - Establishes a “clear-statement” rule for distinguishing between jurisdictional and claim processing requirements in a statute: A “threshold limitation on a statute’s scope shall count as jurisdictional” only “if the Legislature clearly states that it is.”
- *United States v. Kwai Fun Wong* (S. Ct. 2015)
 - For a requirement to be jurisdictional, “traditional tools of statutory construction must plainly show that Congress imbued a procedural bar with jurisdictional consequences.”

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Tax Court Jurisdiction Generally

- The Tax Court’s docket remains composed largely of income tax deficiency cases under IRC § 6213(a), but the range of matters subject to Tax Court review continues to expand, *e.g.*,:
 - Collection due process proceedings;
 - Claims for innocent spouse relief;
 - Partnership cases under TEFRA (now repealed) and BBA;
 - Tax exempt status determinations;
 - Actions for redetermination of employment status;
 - Interest abatement claims;
 - Whistleblower claims; and
 - Passport revocation challenges.
- Periodic calls for further expansion into areas such as assessable penalties and employment taxes

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First appeared as part of the conference materials for the 70th Annual Taxation Conference: Day 1 - Controversy session "How Firm are Court Filing Deadlines in Tax Cases?"