



TaxNewsFlash

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Sixth Circuit: 90-day petition-filing deadline is nonjurisdictional claims-processing rule subject to equitable tolling

The U.S. Court of Appeals for the Sixth Circuit held that the 90-day petition-filing deadline under section 6213(a) is a nonjurisdictional requirement, and that the deadline is a claims-processing rule which can be subject to equitable tolling, rather than a jurisdictional rule that would bar the court from considering the petition.

The case is: *Oquendo v. Commissioner*, No. 24-1205 (August 25, 2025). Read the Sixth Circuit's [decision](#)

The court found that the U.S. Tax Court had incorrectly treated the 90-day petition-filing deadline under section 6213(a) as a jurisdictional requirement. The case was remanded to the Tax Court to determine if the taxpayer was entitled to equitable tolling, as the taxpayer claimed they did not receive the notice of deficiency until after the deadline had passed.

The court noted that the Supreme Court's recent guidance on jurisdictional requirements influenced its decision to treat the deadline as nonjurisdictional, aligning with decisions from the Second Circuit ([read TaxNewsFlash](#)) and the Third Circuit, and disagreeing with analyses from the Seventh and Ninth Circuits. While this suggests a Circuit Court split that could be resolved by the U.S. Supreme Court, the court acknowledged that the Seventh and Ninth Circuits issued their opinions prior to the Supreme Court's decision in *Boechler v. Comm'r*, 596 U.S. 199 (2015), on which the court relied.

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