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U.S. Tax Court: Timely filed petition, postage from approved commercial vendor

The U.S. Tax Court today issued a “reviewed opinion” in a case concerning an envelope that had a postmark from Stamps.com, but did not have a U.S. Postal Service postmark.

The Tax Court majority concluded the taxpayers’ petition was timely mailed and thus timely filed. The case is: *Pearson v. Commissioner*, 149 T.C. No. 20 (November 29, 2017)

Read the Tax Court’s [opinion](#) [PDF 145 KB] that includes both a separate concurring opinion and a dissenting opinion.

Summary

A summary of the facts in this case reveals:

- The last day for the taxpayers to petition the Tax Court was April 22, 2015.
- The court received the taxpayers’ petition via certified mail on April 29, 2015.
- The envelope containing the petition was properly addressed and had been deposited at a U.S. post office with sufficient postage prepaid through Stamps.com (a U.S. Postal Service (USPS)-approved commercial vendor).
- Affixed to the envelope containing the petition was a Stamps.com postage label bearing the date April 21, 2015—the date on which the postage was paid and the label printed.
- The envelope did not bear a USPS postmark.
- The USPS entered the envelope into its tracking system for certified mail on April 23, 2015.

The Tax Court held that the date appearing on the Stamps.com postage label was to be regarded as a “postmark[] not made by the United States Postal Service” under

section 7502(b). The court concluded the envelope containing the petition was timely mailed under the regulations implementing section 7502(b), and thus was timely filed under section 6213(a).

The Tax Court looked to a decision of the Seventh Circuit, *Tilden v. Commissioner*, 846 F.3d 882 (7th Cir. 2017) given “the facts of the present case substantially match the facts at issue in *Tilden*....”

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