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Ninth Circuit: Mailbox rule for refund claims, regulations accorded deference

The U.S. Court of Appeals for the Ninth Circuit today, reversing a federal district court decision, held that regulations under section 7502 provide that the taxpayers' exclusive means to prove delivery of a timely mailed return to the IRS is a registered mail receipt, rendering the common-law mailbox rule unavailable to them.

The case is: *Baldwin v. United States*, D.C. Nos. 17-55115 and 17-55345 (9th Cir. Apr. 16, 2019). Read the Ninth Circuit's [decision](#) [PDF 63 KB] (15 pages)

Summary

Based on a \$2.5 million net operating loss carryback reported on their 2007 tax return, the taxpayers prepared an amended 2005 tax return claiming a refund of approximately \$167,000. The taxpayers were required to file their amended 2005 tax return by October 15, 2011—three years from the extended due date for their 2007 tax return.

The taxpayers assert that they sent their amended 2005 tax return to the IRS by U.S. mail in June 2011, well before the October 15th deadline. But the IRS never received that return, or any other return postmarked by the October 15, 2011 deadline.

The IRS eventually received an amended 2005 return from the taxpayers in July 2013, but the envelope containing that return was postmarked after the statutory deadline had passed. The IRS accordingly denied their refund claim as untimely. The taxpayers brought suit for their tax refund in the federal district court, which credited the testimony of two employees of the taxpayers to find that, under the common-law mailbox rule, the amended return had been timely filed.

On appeal, the Ninth Circuit reversed and remanded with instructions to dismiss. The appeals court explained that the common-law mailbox rule provides that proof of proper mailing—including by testimonial or circumstantial evidence—gives rise to a rebuttable presumption that the document was physically delivered to the addressee in the time such a mailing would ordinarily take to arrive. In contrast, section 7502 allows documents to be deemed timely filed only if they are actually delivered to the IRS and postmarked on or before the deadline. For documents sent by registered mail, section

7502 provides a presumption that the document was delivered even if the IRS claims not to have received it, so long as the taxpayer produces the registration as proof. Under Reg. section 301.7502-1(e)(2), section 7502 provides the exclusive means to prove delivery. The Ninth Circuit accorded *Chevron* deference to the regulation as a permissible construction of section 7502, and concluded that the common-law mailbox rule is unavailable to the taxpayers in this case.

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