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Ninth Circuit: Mailbox rule not applicable for then-eligible private delivery service

The U.S. Court of Appeals for the Ninth Circuit today affirmed the U.S. Tax Court's dismissal of taxpayer petitions for lack of jurisdiction, finding that the petitions were not timely received and that the mailbox rule did not apply because the delivery was not by a then-eligible private delivery service.

In general, taxpayers can invoke the "mailbox rule"—that a document will be deemed filed when dispatched—only if the taxpayer uses one of the particular delivery services that the IRS has specifically designated for that purpose.

The taxpayer representatives in this case delegated the task of arranging delivery to a secretary who selected an overnight delivery service that was not at that time on the published list of approved delivery services (a service that was added two weeks later). The petitions were not received by the Tax Court until two days after being dropped off at the delivery service's office in California.

The Tax Court concluded that the petitions had not been timely received and that the mailbox rule did not apply, and it dismissed the petitions for lack of jurisdiction. The Ninth Circuit today affirm.

The case is: *Organic Cannabis Foundation, LLC v. Commissioner*, No. 17-72874 (9th Cir. June 18, 2020). Read the Ninth Circuit's [decision](#) [PDF 110 KB]

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