



# TaxNewsFlash

United States



No. 2020-396  
June 18, 2020

## 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 (9<sup>th</sup> Cir. June 18, 2020). Read the Ninth Circuit’s [decision](#) [PDF 110 KB]

The information contained in TaxNewsFlash is not intended to be “written advice concerning one or more Federal tax matters” subject to the requirements of section 10.37(a)(2) of Treasury Department Circular 230, as the content of this document is issued for general informational purposes only, is intended to enhance the reader’s knowledge on the matters addressed therein, and is not intended to be applied to any specific reader’s particular set of facts. Although we endeavor to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. Applicability of the information to specific situations should be determined through consultation with your tax adviser.

KPMG International is a Swiss cooperative that serves as a coordinating entity for a network of independent member firms. KPMG International provides no audit or other client services. Such services are provided solely by member firms in their respective geographic areas. KPMG International and its member firms are legally distinct and separate entities. They are not and nothing contained herein shall be construed to place these entities in the relationship of parents, subsidiaries, agents, partners, or joint venturers. No member firm has any authority (actual, apparent, implied or otherwise) to obligate or bind KPMG International or any member firm in any manner whatsoever.

Direct comments, including requests for subscriptions, to [Washington National Tax](#). For more information, contact KPMG's Federal Tax Legislative and Regulatory Services Group at + 1 202.533.4366, 1801 K Street NW, Washington, DC 20006-1301.

To unsubscribe from TaxNewsFlash-United States, reply to [Washington National Tax](#).

[Privacy](#) | [Legal](#)