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A Missed Tax Court Deadline Is No Longer an Automatic Jurisdictional Death Sentence in the Eighth Circuit

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For decades, taxpayers who missed the 90-day deadline to file a Tax Court deficiency petition were often told the same thing: Too late. Case dismissed. The Tax Court has no power to hear you. That answer just changed in the Eighth Circuit.

On August 11, 2026, the Eighth Circuit issued a published opinion in *Maniktala v. Commissioner*, reversing the Tax Court and holding that the 90-day deadline under Internal Revenue Code section 6213(a) is not jurisdictional and may be subject to equitable tolling.

I had the privilege of briefing and arguing this appeal on behalf of the taxpayers, making this decision both professionally meaningful and practically important for taxpayers in the Eighth Circuit.

The Eighth's decision may sound procedural. It is. But procedure is often where taxpayer rights either survive or disappear.

Why This Matters

A notice of deficiency is the IRS's formal determination that a taxpayer owes additional tax. For most taxpayers, once that notice is mailed, section 6213(a) gives them 90 days to file a petition in the United States Tax Court.

Tax Court matters because it allows taxpayers to challenge the IRS *before* paying the disputed tax. That prepayment forum is often the difference between a taxpayer being able to challenge the IRS at all and being priced out of the fight. Without Tax Court access, a taxpayer may be forced to pay the disputed liability first, pursue an administrative refund claim, and then sue for a refund in federal court if the IRS denies the claim. For many taxpayers, that is not a realistic alternative. The amount at issue may be too large. The process may be too expensive. The taxpayer may never get a meaningful chance to be heard. So, when the Tax Court treats the 90-day deadline as jurisdictional, the consequence is severe. If the petition is late, even by circumstances outside the taxpayer's control, the court says it has no power to do anything about it.

No equitable tolling. No consideration of fairness. No hearing whether the taxpayer acted diligently. Just dismissal.

Maniktala changes that rule in the Eighth Circuit.

What the Eighth Circuit Held

The Eighth Circuit held that section 6213(a)'s 90-day filing deadline is a claims processing rule, not a jurisdictional bar. And this is the important distinction. A jurisdictional rule limits the court's power. If a deadline is jurisdictional, courts generally cannot forgive a late filing, even for compelling reasons.

A claims-processing rule, by contrast, still matters. Deadlines still matter. Taxpayers still need to file on time whenever possible. But a claims-processing deadline may be subject to equitable tolling in appropriate circumstances.

In plain English, the court agreed with our position: a late petition does not automatically mean the courthouse doors are locked forever. The Eighth Circuit also held that the deadline is subject to equitable tolling. That does not mean every late petitioner wins. It means taxpayers may have the opportunity to show that they pursued their rights diligently and that extraordinary circumstances prevented timely filing. It is not a free pass to miss the deadline, and it shouldn't be. But it is a chance to be heard. And in tax procedure, that chance can make all the difference.

The Facts Make the Point

The Maniktalas filed joint returns claiming research and development credits based on activities of an S corporation. The IRS later issued a notice of deficiency to the shareholders. The notice was mailed on December 20, 2023, and listed March 19, 2024, as the last day to file a Tax Court petition. Our clients, however, did not receive the notice until July 9, 2024. A Tax Court petition was filed on July 19, 2024, after the 90-day period expired. The Tax Court dismissed the case for lack of jurisdiction.

On appeal, the Eighth Circuit reversed and remanded so the Tax Court could determine whether equitable tolling is warranted. The Eighth Circuit did not hold that the taxpayers automatically receive tolling. It held that the Tax Court has authority to consider whether they do. That is the point. The Tax Court is no longer required to stop at "late." It may now ask "why."

The Growing Circuit Split

Maniktala is part of a much larger, unsettled national issue. The Eighth Circuit joined the Second, Third, and Sixth Circuits in holding that section 6213(a)'s deficiency petition deadline is not jurisdictional and is subject to equitable tolling. Other circuits have gone the other way or have not yet adopted that view. The Tax Court itself has continued to treat the deadline as jurisdictional in cases not appealable to circuits that have rejected that approach.

That means taxpayer rights currently depend, in part, on geography. A taxpayer in one circuit may receive a chance to seek equitable tolling. A similarly situated taxpayer in another circuit may not. That is a hard result to justify when the issue is access to court.

As of now, this issue remains active nationally, with circuit law continuing to develop. Unless and until Congress or the Supreme Court resolves the issue nationwide, taxpayers may continue to face different procedural rules depending on where their case is appealable.

That is not how access to Tax Court should work.

Congress Is Watching Too

This is not just happening in the courts. Legislation currently before Congress reflects the same position taxpayers advanced in *Maniktala*: The Tax Court should have authority to apply equitable tolling in deficiency cases when the facts and circumstances warrant it.

The Tax Court Improvement Act would expressly provide that the Tax Court has jurisdiction to toll the section 6213(a) filing period when equity warrants tolling. It would also address the harsh consequences that may follow when a late Tax Court petition is dismissed.

That legislative development reflects a broader recognition that procedural deadlines should not become automatic traps that prevent taxpayers from ever challenging the IRS on the merits, particularly when the taxpayer acted diligently, and circumstances beyond the taxpayer's control caused the late filing.

Deadlines matter. But they should not become traps that eliminate judicial review when equity warrants a hearing.

What Taxpayers Should Take Away

The first takeaway is simple: do not miss the 90-day deadline if at all possible.

If you receive a notice of deficiency, act immediately. The deadline is short. Interest may continue to run. Collection consequences may follow. And even in circuits that allow equitable tolling, tolling is not automatic.

The second takeaway is just as important: if the deadline has already been missed, the analysis may not be over. Taxpayers should not assume that a late petition automatically ends the fight. Depending on where the case is appealable, and depending on the facts, equitable tolling may be available.

The third takeaway is that notices matter. Mail issues matter. Timing matters. Documentation matters. If a taxpayer receives a notice late, never receives it, relies on incorrect information, faces serious circumstances preventing timely filing, or otherwise misses the deadline despite diligence, those facts should be preserved immediately.

Equitable tolling is *fact* intensive. Taxpayers should keep records of everything they do when dealing with the IRS, including notices received, envelopes, mailing dates, calls, correspondence, representative communications, and efforts to act once they learn of a problem. The IRS makes mistakes. Mail gets delayed. Notices are missed. But the burden remains on the taxpayer to show that an extraordinary circumstance, and not simple inattention, caused the missed procedural deadline.

The Bottom Line

Maniktala gives taxpayers in the Eighth Circuit something they did not clearly have before: the opportunity to ask the Tax Court to consider equitable tolling in deficiency cases.

That is not a technicality. It is access to court. And when the IRS says a taxpayer owes more money, access to court is often the difference between having rights on paper and having a real chance to use them.