

Section 6081.—Extension of Time for Filing Returns

Section 7502.—Timely Mailing Treated as Timely Filing and Paying

26 CFR § 1.6081-1(a): Extension of time for filing returns.

26 CFR 301.7502-1: Timely mailing treated as timely filing.

This ruling sets forth the position that the Internal Revenue Service will accept, as timely filed, a federal tax return, claim for refund, statement, or other document required or permitted to be filed with the Service that is mailed from and officially postmarked in a foreign country on or before the last date prescribed for filing,

including any extension of time for filing. The ruling also sets forth the position that a federal tax return, claim for refund, statement, or other document required or permitted to be filed with the Service or with the United States Tax Court given to a designated private delivery service before midnight on the last date prescribed for filing shall be deemed timely filed pursuant to sections 7502(a), (d)(1), and (f)(1) of the Code.

Rev. Rul. 2002-23

ISSUES:

1. Whether the Internal Revenue Service (“Service”) will accept as timely filed a federal tax return, claim for refund, statement, or other document required or permitted to be filed with the Service when it is mailed from and officially postmarked in a foreign country on or before the last date prescribed for filing?

2. Whether a federal tax return, claim for refund, statement, or other document required or permitted to be filed with the Service or with the United States Tax Court is timely filed when it is given to a designated delivery service in a foreign country and recorded or marked as described in section 7502(f)(2)(C) before midnight on the last date prescribed for filing?

LAW AND ANALYSIS:

Pursuant to Rev. Rul. 80-218 (1980-2 C.B. 386), and Policy Statement P-2-9 (July 27, 1969), the Service has accepted federal tax returns mailed by taxpayers from foreign countries as timely filed if they bear an official postmark dated on or before the last date prescribed for filing, including any extension of time for such filing. If the last date for filing falls on a Saturday, Sunday, or a legal holiday within the meaning of section 7503, returns have been considered timely if postmarked on or before the next succeeding day which is not a Saturday, Sunday, or a legal holiday. This revenue ruling reaffirms the position previously announced in Rev. Rul. 80-218 and Policy Statement P-2-9. For purposes of this revenue ruling, the term legal holiday means a legal holiday in the District of

Columbia in the United States, or a State-wide legal holiday in the State where the federal tax return, claim for refund or other document is required to be filed or sent. The term does not include legal holidays in foreign countries unless such holidays are also legal holidays in the District of Columbia or applicable State, as described above.

In addition, pursuant to the authority granted by section 6081(a) of the Code, which permits the Commissioner to grant a reasonable extension of time for filing any return, declaration, statement or other document, this revenue ruling expands the application of the timely mailing is timely filing rules set forth in Rev. Rul. 80-218 to claims for refund, statements or other documents required or permitted to be filed with the Service. Accordingly, claims for refund, statements and other documents will be treated as timely filed if the conditions described above are satisfied. If, however, the envelope that contains a claim, statement or other document has a timely postmark, but it is received after the time when an envelope postmarked and mailed at that time and location would ordinarily be received, the sender may be required to prove that it was timely mailed.

Timely filing treatment, however, will not apply to foreign postmarked documents filed with the United States Tax Court, such as petitions and notices of appeal, unless given to a designated international delivery service as discussed below. *See, e.g., Sarrell v. Commissioner*, 117 T.C. 122 (2001).

Section 7502(f) authorizes the Secretary to designate delivery services satisfying the requirements of section 7502(f)(2) to deliver items qualifying for timely mailing as timely filing treatment in the same manner as items postmarked and deposited in the United States mail. Returns, claims for refund, statements and other documents sent via an international delivery service qualify for timely mailing as timely filing treatment if the international delivery service meets the requirements of section 7502(f)(2) and is designated under Rev. Proc. 97-19 (1997-1 C.B. 644). Accordingly, returns, claims for refund, statements and other documents given to a designated international delivery service before midnight on the last date prescribed for filing with the

Service will be deemed timely filed on the date the document was given to the delivery service, as recorded electronically on its data base or marked on the cover in which the item is to be delivered, as described in section 7502(f)(2)(C). If the last date for filing falls on a Saturday, Sunday, or a legal holiday within the meaning of section 7503, returns, claims, statements and other documents will be considered timely if given to a designated international delivery service before midnight on the next succeeding day which is not a Saturday, Sunday, or a legal holiday. Timely filing treatment will also apply to documents filed with the United States Tax Court, such as petitions or notices of appeal, pursuant to section 7502(d)(1).

HOLDINGS:

1. The Internal Revenue Service will accept, as timely filed, a federal tax return, claim for refund, statement, or other document required or permitted to be filed with the Service that is mailed from and officially postmarked in a foreign country on or before the last date prescribed for filing, including any extension of time for filing. If the last date for filing falls on a Saturday, Sunday, or a legal holiday within the meaning of section 7503, returns, claims, statements, and other documents will be considered timely if postmarked on or before the next succeeding day which is not a Saturday, Sunday, or a legal holiday.

2. A federal tax return, claim for refund, statement, or other document required or permitted to be filed with the Service or with the United States Tax Court that is given to a designated international delivery service before midnight on the last date prescribed for filing shall be deemed timely filed pursuant to section 7502(a), (d)(1), and (f)(1). If the last date for filing falls on a Saturday, Sunday, or a legal holiday within the meaning of section 7503, returns, claims, statements, and other documents will be considered timely if given to a designated international delivery service before midnight on the next succeeding day which is not a Saturday, Sunday, or a legal holiday. Such returns, claims for refund, statements, or other documents will be deemed filed on the date the document was given to the designated delivery service, as recorded electronically on its data base or marked on the cover in which the item is to be delivered pursuant to section 7502(f)(2)(C).

EFFECT ON OTHER REVENUE RULINGS:

Rev. Rul. 80-218 (1980-2 C.B. 386) is superseded.

DRAFTING INFORMATION

The principal author of this revenue ruling is David A. Abernathy of the Office of Associate Chief Counsel (Procedure and Administration), Administrative Provisions and Judicial Practice Division. For further information regarding this revenue ruling, contact Mr. Abernathy at (202) 622-7860 (not a toll-free call).