

**Office of Chief Counsel
Internal Revenue Service
Memorandum**

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to: Adam L. Flick
Associate Area Counsel
(Small Business/Self-Employed)

from: Blaise Dusenberry
Senior Technician Reviewer
(Procedure & Administration)

subject: The application of the suspension of the period of limitation in section 6503 when a case is docketed in Tax Court but no statutory notice of deficiency was issued

This Chief Counsel Advice responds to your request for assistance. This advice may not be used or cited as precedent.

ISSUE

Does the suspension of the period of limitations provided in section 6503(a) apply when a proceeding in respect of a deficiency is docketed in Tax Court, but the Service did not issue a statutory notice of deficiency under section 6212(a) ("SND") regarding that deficiency to the taxpayer?

CONCLUSION

Yes. Section 6503(a) provides that the period of limitations on assessment is suspended if a proceeding in respect of the deficiency is placed on the docket of the Tax Court, until 60 days after the decision of the Tax Court becomes final, and this suspension applies regardless of whether a SND was issued to the taxpayer for that deficiency or not.

BACKGROUND

IRM section 8.20.7.21.2 discusses closing procedures that Service Appeals officers should follow in closing cases docketed in Tax Court that were dismissed for lack of

jurisdiction. Paragraph four states if a petition is dismissed for lack of jurisdiction because the Service did not issue a SND, the period of limitation on assessment is not suspended. This indicates that the suspension of the period of limitation on assessment in section 6503(a) does not apply in a case where a proceeding is docketed in tax court but the Service did not issue a SND. You requested advice regarding the applicability of the 6503(a) suspension to such cases.

LAW AND ANALYSIS

Section 6503(a) provides that

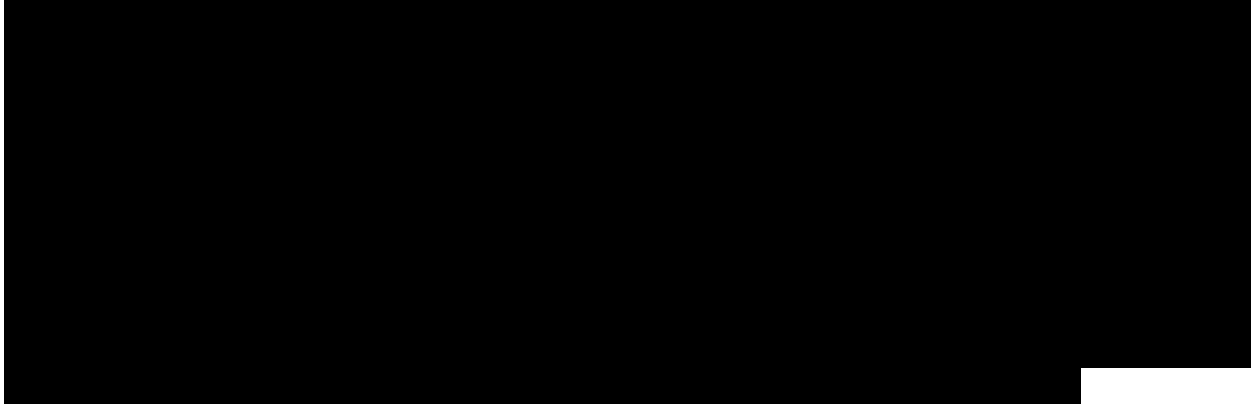
The running of the period of limitations provided in section 6501 or 6502 . . . shall (after the mailing of a notice under section 6212(a)) be suspended for the period during which the Secretary is prohibited from making the assessment or from collecting by levy or a proceeding in court (and in any event, if a proceeding in respect of the deficiency is placed on the docket of the Tax Court, until the decision of the Tax Court becomes final), and for 60 days thereafter.

The second parenthetical above, beginning “and in any event”, extends the suspension to cases where the Service was not prohibited from making the assessment or collection. It also extends the suspension to cases where the Service did not mail a SND to the taxpayer regarding that deficiency. Therefore, if a proceeding in respect of a deficiency is docketed in Tax Court, the suspension of the periods of limitation on assessment applies even if the Service did not mail a SND. Any indication in the IRM that the suspension does not apply if the Service did not mail a SND is incorrect.

CASE DEVELOPMENT, HAZARDS AND OTHER CONSIDERATIONS

[REDACTED]

[REDACTED]



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Please call _____ if you have any further questions.