



May 22, 2019

What Happens if Your Tax Return is Lost in the Mail?

INTERNAL REVENUE SERVICE, SCHNEIDER DOWNS, TAX
BY MICHAEL DARPINO

Imagine this scenario: the calendar says it's April 15th, and you realize that you can't avoid filing your federal tax returns any longer. You rush to the post office and wait in line behind other last-minute filers. When it's finally your turn at the counter, you pay for first-class mail and then watch the clerk affix postage to the envelope and drop it into the delivery bin. You walk out the door, confident that the April 15 postmark and the receipt in your pocket are all you need to protect yourself against a challenge that your return wasn't filed on time. What could possibly go wrong?

The answer is nothing, provided that the Internal Revenue Service (IRS) receives and properly processes your return. But what if the IRS never receives your return, or an IRS employee mishandles it?

Under a common law doctrine known as the "mailbox rule", proof of proper mailing by testimony or other evidence creates a presumption that the document was properly delivered to the addressee. This means that if the mailbox rule applies, your testimony that you mailed the return on April 15, together with the production of your first-class mail receipt, would be sufficient evidence to support the claim that you mailed the return on April 15. It would then be up to the IRS to prove otherwise. You are in good shape.

The problem is, the IRS may not be bound by the mailbox rule. Under Internal Revenue Code Section 7502 (Code Section 7502), delivery is not presumed unless the taxpayer sends the document via *certified* or *registered* mail, and also produces the registration as proof. The regulations provide that such registration is the *exclusive* means to prove delivery. This means that if Code Section 7502 overrides the mailbox rule, your testimony and first-class mail receipt will prove absolutely nothing. You are in for a bad day.

In April 2019, the Ninth Circuit Court of Appeals ruled in favor of the IRS on this issue. The taxpayers in *Baldwin v. United States* sought a refund for an overpayment of taxes from calendar year 2005. Per applicable rules, the amended return was due no later than October 15, 2011. They sought to rely on the mailbox rule to establish that the amended return was presumptively delivered to the IRS in June 2011, shortly after it was mailed. The IRS argued that it did not receive the amended return until July 2013, and since the taxpayers could not produce the specific mailing registration required by Code Section 7502, the taxpayers were not entitled to the presumption of delivery. The Court ruled that Code Section 7502 overrides the common law mailbox rule, and as such, the taxpayers could not claim their refund.

Avoiding the *Baldwin* result is as simple as paying the few extra dollars for

registered or certified mail. The regulations provide that the use of a commercial or private delivery service like FedEx is also sufficient to obtain the protection of Code Section 7502. Of course, you can always e-file your return or even hand deliver it to the IRS in order to meet the deadline. Just be sure to remember that a receipt for first-class mail is not necessarily proof that you mailed your return on time.

IRC §7502

Baldwin v. United States, 2019 U.S. App. LEXIS 11036

Treas. Reg. §301.7502-1

You've heard our thoughts... We'd like to hear yours

The Schneider Downs Our Thoughts On blog exists to create a dialogue on issues that are important to organizations and individuals. While we enjoy sharing our ideas and insights, we're especially interested in what you may have to say. If you have a question or a comment about this article – or any article from the Our Thoughts On blog – we hope you'll share it with us. After all, a dialogue is an exchange of ideas, and we'd like to hear from you. Email us at contactSD@schneiderdowns.com.

Material discussed is meant for informational purposes only, and it is not to be construed as investment, tax, or legal advice. Please note that individual situations can vary. Therefore, this information should be relied upon when coordinated with individual professional advice.

© 2024 Schneider Downs. All rights-reserved. All content on this site is property of Schneider Downs unless otherwise noted and should not be used without [written permission](#).