

Postage from private meter fails timely mailing rule

Under the timely mailing rule, if an item is postmarked by the Postal Service on the day it is due, the IRS or a court will consider it timely filed, even if they never receive it. The Tax Court, however, didn't apply the rule to a postmark from a private meter. It ruled that court papers weren't timely filed, even though the envelope bore a timely postmark from a private meter. (*Grimm v. Commissioner*, No. 4649-161, U.S. Tax Court, 2017)

Private meter, ordinary business practices not enough. A taxpayer and the IRS had been tussling over adjustments it made to his return. The IRS notified him on Jan. 11, 2016, of its intent to levy on his assets. The taxpayer, therefore, had 30 days to file a petition in Tax Court.

The private postage meter he used to postmark his court petition bore a Feb. 2, 2016, postmark. The court, however, didn't receive it until Feb. 26. *IRS:* The case should be dismissed because the petition wasn't timely filed. *Taxpayer:* The petition was timely filed, since it was postmarked within the 30-day time frame. And, according to his court testimony, it was mailed in accordance with the company's routine mailing procedures.

The court agreed with the IRS and dismissed the case. *Court:* The timely-mailing-is-timely-filing rule only applies to items that are postmarked by the Postal Service. The taxpayer's testimony regarding his company's mailing procedures wasn't enough to prove timeliness, the court added. He would also have to prove that the Postal Service was responsible for the delay, which he didn't do.

Skip the trip. If you want to skip the trip to the Post Office, you can use a private delivery service, instead.

Hitch: Only these services from these service providers qualify under the timely mailing rule:

- **DHL:** Express 9:00, Express 10:30, Express 12:00, Express Worldwide, Express Envelope, Import Express 10:30, Import Express 12:00 and Import Express Worldwide
- **FedEx:** First Overnight, Priority Overnight, Standard Overnight, 2 Day, International Next Flight Out, International Priority, International First and International Economy
- **UPS:** Next Day Air Early AM, Next Day Air, Next Day Air Saver, 2nd Day Air, 2nd Day Air A.M., Worldwide Express Plus and Worldwide Express.

PAYROLL PRACTICE TIP: Be sure to check the IRS address for private delivery services; it may not be the same as the address for regular mail. Also, private delivery services can't deliver to P.O. boxes. You must use the Postal Service to mail an item to an IRS P.O. box address.