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Tax Regs in Plain English

# IRS Restructuring and Reform Act of 1998

## 3463 - Notice of Deficiency to Specify Deadlines for Filing Tax Court Petitions

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### Section 3463

**A. Provision covered:** Section 3463 (Notice of Deficiency to specify Deadlines for Filing Tax Court Petitions) [Code § 6213(a)]

**B. Background:** This provision is intended to help taxpayers avoid missing the deadline for filing petitions in the Tax Court. Under current procedures, a notice of deficiency does not set forth the date that is 90 (or 150) days after the mailing of the notice.

**C. Changes:** This section requires the Service to include in the notice of deficiency the date for filing a Tax Court petition. If this date exceeds the 90th day (or 150th day, if the notice is addressed to a taxpayer outside of the United States) following the mailing of the notice, the taxpayer has until the date on the notice to file a Tax Court petition.

**D. Impact:** All notices of deficiency (and possibly other notices and determinations that are issued by the Service) mailed after December 31, 1998, will need to include the date that a Tax Court petition would be due.

### E. Necessary Actions:

1. **Actions/Procedures:** The form statutory notice of deficiency needs to be revised to provide the date that is 90 days (or 150 days, if addressed to a taxpayer outside of the United States) after the date on the notice of deficiency. If the 90th (or

150th) day is a Saturday, Sunday, or legal holiday in the District of Columbia, the notice should state the next date that is not a Saturday, Sunday, or legal holiday in the District of Columbia. The IRM and CCDM also need to be updated to reflect these changes.

2. **Things we CAN do:** Include a paragraph in the notice of deficiency, stating that the Service has determined the 90th (or 150th) day to be X, but cautioning the taxpayer to do an independent calculation, in case X is actually before the 90th day. Also, indicate in the notice of deficiency that the Service may think the 90-day period is appropriate, but the taxpayer may have information indicating that the 150-day period is appropriate. In these instances, we would not want the taxpayer to rely on the Service's determination and possibly give up any right that the taxpayer has to petition the Tax Court. The Service may consider writing a computer program that would calculate the 90th (or 150th) day and determine whether the day is a Saturday, Sunday, or legal holiday in the District of Columbia.

**F. Other Special Comments:** Other Code sections may be affected by this change, including section 6234(g)(2)(B) and (h)(1) [treats a notice of adjustment as a section 6212 notice of deficiency in certain instances]; section 7436 (determination of employment status)[applies section 6213 as if the Secretary's determination of employment status were a notice of deficiency]; section 6222 [Notice of FPAA]; and section 6901 [notice of transferee liability].

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