



Business Signals: Client Alert

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An alert about the legal implications of issues affecting businesses and business owners in the Central Gulf Coast region.



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NEW OPPORTUNITY FOR REFUNDS OR ABATEMENT OF PENALTIES AND INTEREST CHARGED DURING COVID? THE KWONG AND ABDO CASES SAY YES!

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Recent cases from the United States Tax Court and the Court of Federal Claims have provided a potential opportunity for U.S. taxpayers who incurred penalties and interests for taxes owed during the Covid disaster. In the cases of *Abdo v. United States*, 162 TC 148 (2024) and *Kwong v. United States*, 179 Fed. Cl. 382 (Nov. 25, 2025), both the Tax Court and the U.S. Court of Federal Claims have held that certain filing deadlines were suspended during the Covid disaster period. These cases base their holdings on an interpretation of the 2019 version of IRC § 7508A, which is effective for disasters declared after December 31, 1996, but prior to the amendment of the statute in 2021. Under this statute, any amount of interest, penalties, additional amounts or additions to the tax for periods during a disaster period were

required to be disregarded by the IRS during the relevant disaster time period. The statute stated that the time period for the filing of income, estate, gift, employment and excise tax forms, as well as payment of those taxes, was suspended during that time period to “the date which is 60 days after the latest incident date so specified.”

The Court in *Abdo* held that the plain language of Section 7508A required at least a 60-day extension of the time limit to file a petition with the Tax Court challenging an IRS notice of deficiency. The Court in *Kwong* went further, holding that the statute suspended the deadlines for filing of a request for abatement of penalties until 60 days after the expiration of the Covid time period. The relevant Covid disaster period declared by Congress ran from January 20, 2020, through May 10, 2023. Based on the Courts’ interpretations of the Code in *Abdo* and *Kwong*, because the 2019 version of Section 7508A suspended the time limits for payment or filing of returns or requests for refunds or abatements, many taxpayers have until July 10, 2026, to file a petition for refund or abatement. Per the general statutes regarding the time limits for filing petitions for refunds or abatements (IRC Section 6511), taxpayers will have three years from the end of the Covid disaster period, plus the 60-day extension provided in § 7508A(d).

What does this mean? These holdings mean that the taxpayer may have the opportunity to request either a refund for amounts paid or an abatement of any interest or penalties assessed by the

IRS during the Covid disaster period. This would seem to include interest or penalties applicable to taxes owed both before and during the Covid disaster period, since the charging of such interest or the requirement of filing such returns was suspended by the 2019 version of IRC § 7508A.

There are many issues in this particular area that remain unsettled, and the IRS has appealed the *Kwong* decision, so there is a possibility that this opportunity will be short-lived. However, based on that decision, there may be an opportunity for taxpayers who fell behind on their tax payments during the Covid time period to get some relief from interest and penalties that were either paid or assessed during the time period.

Importantly, this position has been mentioned in blog posts by the National Taxpayer Advocate, Erin Collins. Ms. Collins recently released an alert in her blog specifically noting this potential argument for taxpayers and urging taxpayers to consult with their tax professionals to discuss whether they should be filing for refund or abatement. As noted in her blog, this claim would have to be filed as a **protective claim**, which would have to be clearly marked on the Form 843 (which is the form where a taxpayer makes a claim for refund or abatement). Technically, under the Internal Revenue Manual, taxpayers do not even need to be able to calculate the exact amounts of the refund or request for abatement for such a protective claim, but it must alert the IRS of sufficient facts to allow the IRS to be able to understand the “essential nature of the claim.” The Service has already directed its officers to hold such claims in suspense until the underlying issues have been resolved by the courts.

We are putting this alert out on our website to let the public know of this opportunity, but most importantly to emphasize the upcoming deadline. **Any taxpayer who wishes to take advantage of this opportunity must file their protective claim for refund or abatement no later than July 10, 2026.** With time running out, we would certainly recommend that all taxpayers to whom this would apply consult with their tax professionals as soon as possible to determine whether this is a possibility.