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Michael J. Wepplo & Tatyana R. Wepplo,

Petitioners

v.

Commissioner of Internal Revenue

Respondent

Docket No. 36722-21
Document No. 91

Brief of Aprio Advisory Group, LLC as Amicus Curiae in Support of Petitioners

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UNITED STATES TAX COURT

MICHAEL J. WEPPLO & TATYANA R. WEPPLO, *Petitioners*, v. COMMISSIONER OF INTERNAL REVENUE, *Respondent*.	Docket No. 36722-21

BRIEF OF APRIO ADVISORY GROUP, LLC
AS *AMICUS CURIAE*
IN SUPPORT OF PETITIONERS

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INTEREST OF *AMICUS CURIAE*

Aprio Advisory Group, LLC ("Aprio") is a national business advisory and accounting firm that provides tax, advisory, assurance, and other professional services to businesses and individuals throughout the United States. Aprio's tax professionals regularly advise taxpayers on complex federal tax matters and assist taxpayers in understanding and complying with the Internal Revenue Code and related administrative guidance. Through this work, Aprio has substantial practical experience with the application of federal tax laws to taxpayers and businesses.

Aprio has an interest in the proper interpretation and administration of federal tax laws affecting taxpayers, broadly. The issue before the Court concerning the application of I.R.C. § 7508A following a federally declared disaster has implications extending beyond the Petitioners in this case, and potentially affects numerous taxpayers advised by tax professionals such as Aprio.

Aprio supports Petitioners' position that section 7508A(d), as in effect during the COVID-19 disaster, requires the statutory disregard period to apply to interest accruing during that period, including interest on tax liabilities arising before the federally declared disaster. Aprio further submits that the statutory language establishes a mandatory disregard period extending through 60 days after the termination of the disaster declaration, and that neither administrative action nor Treasury regulations may shorten the period prescribed by Congress.

The Court has recognized that the question presented "appears to affect a potentially very large number of taxpayers and may be of some importance to the tax system." Aprio respectfully offers its perspective to assist the Court in resolving the proper interpretation and application of section 7508A(d) and the consequences of that interpretation for affected taxpayers.

Aprio's authority to file this brief derives from the Court's July 2, 2026 Order inviting motions for leave to file an amicus curiae brief pursuant to Rule 151.1. No party's counsel authored this brief in whole or in part. Neither any party nor any party's counsel contributed money intended to fund the preparation or submission of this brief. No person other than Aprio, its members, or its counsel contributed money intended to fund the preparation or submission of this brief.

SUMMARY OF THE ARGUMENT

Section 7508A of the Internal Revenue Code (I.R.C.) provides the authority to postpone certain deadlines in the wake of a federally declared disaster. The 2019 version of the Code was in effect as of January 20, 2020, when the COVID-19 pandemic was declared a federal disaster. The 2019 version of I.R.C. § 7508A requires a mandatory 60-day extension after the "the earliest incident date specified in the declaration . . . and ending on the date which is 60 days after the latest incident date so specified . . ." I.R.C. § 7508A(d)(1) (2019). In the case of the COVID-19 pandemic, the declared disaster declaration ended on May 11, 2023, making the period of January 20, 2020 through July 10, 2023 "disregarded under the internal revenue laws, in respect of any tax liability of such qualified taxpayer" I.R.C. § 7508A(d)(1) (2019). Respondent errs in two areas regarding I.R.C. § 7508A. First, they argue that the extension of the disregarded period is not automatic, and 26 C.F.R. § 301.7508A-1(g) prevents relief because a Tax Court petition is not a listed act. Second, they dispute the start and end dates of the disregarded period, stating that the start date of January 20, 2020 was both the earliest and latest incident date.

In *Abdo*, the core question addressed is whether the postponement provisions contained in I.R.C. § 7508A(d) (2019) apply automatically. *Abdo v. Comm'r*, 162 T.C. 148 (2024). The language in I.R.C. § 7508A(d) (2019) is written in a way that is "unambiguously self-executing." *Abdo*, 162 T.C. at 165. The intent of Congress in writing I.R.C. § 7508A is to provide an automatic and mandatory extension equal to 60 days after the latest incident date, as determined by the courts through the plain text of the statute. In applying *Chevron*, the Court did not reach step two, as the statute is unambiguous in providing a non-discretionary, self-executing 60-day postponement. *Chevron U.S.A. Inc. v. Nat. Res. Def. Council, Inc.*, 467 U.S. 837 (1984). Since the *Abdo* decision on April 2, 2024, *Chevron* has been overturned and replaced by *Loper Bright*, which removes deference to government agencies and places reliance on the court's interpretation of the statute. *Loper Bright Enters. v. Raimondo*, 603 U.S. 369 (2024). In the issue presented by *Abdo,* the statutory language was unambiguous and did not require deference to the government agency's interpretation of its provisions.

The *Kwong* decision illustrates that for the period in discussion, the 2019 version of I.R.C. § 7508A is written with very little room for ambiguity, and the plain language of the text automatically postpones interest from the date of the declared disaster, January 20, 2020 through July 10, 2023, 60 days after the disaster declaration's incident period ended on May 11, 2023. *Kwong v. United States*, 179 Fed. Cl. 382, 387 (2025). Respondent asserts or implies interest is properly charged to the Petitioners for outstanding tax liabilities arising from deficiencies for tax years 2015, 2016, and 2017. Respondent is correct that interest accrued on the tax liabilities outstanding from the years 2015 through 2017 are valid; however, their argument fails to account for interest that is disregarded due to the federally declared disaster period arising from the COVID-19 pandemic, thus overcharging Petitioners. This failure to disregard interest accrued during the applicable disaster period goes against the plain text of the 2019 version of I.R.C. § 7508A, which was in effect at the time of the federally declared disaster.

ARGUMENT

I. I.R.C. § 7508A(D)'S MANDATORY TEXT CONTROLS OVER TREASURY'S LIMITING REGULATION.

A. I.R.C. § 7508A(d) Operates Automatically and is Self-Executing.

The Court in *Abdo* recognized that the plain language of I.R.C. § 7508A(d) controls when determining whether the statute provides mandatory relief. *Abdo v. Comm'r*, 162 T.C. 148, 159 (2024). In interpreting § 7508A(d), the Court considered the statute's "plain" and "literal" language, its specific context, and the broader statutory context. *Id.* at 159.

Congress used mandatory language in I.R.C. § 7508A(d), leaving no doubt that the provision operates automatically and does not depend on a separate discretionary act by the Secretary. As the Supreme Court has explained, "[w]hen a statute distinguishes between 'may' and 'shall,' it is generally clear that 'shall' imposes a mandatory duty." *Kingdomware Techs., Inc. v. United States*, 579 U.S. 162, 172 (2016).

The lesson from *Abdo* is that a Treasury regulation cannot make a mandatory statutory protection subject to the Secretary's discretionary authority. The Court concluded that section 7508A(d) "provides for an automatic and mandatory postponement period" encompassing the acts referenced in section 7508A(a), including the filing of a Tax Court petition for redetermination of a deficiency. *Abdo*, 162 T.C. at 169.

As set forth above, the issue is whether I.R.C. § 7508A(d) operates automatically and is self-executing, requiring the covered period to be disregarded during a federally declared disaster, or whether a taxpayer may obtain relief only through the Secretary's discretionary postponement authority. *Abdo*, 162 T.C. at 149. In describing the issue before it, the Court concluded "in the case of any "qualified taxpayer," the period beginning on the earliest incident date specified in the declaration to which the relevant disaster area relates, and ending on the date which is 60 days after the latest incident date so specified, "shall be disregarded in the same manner as a period specified under [section 7508A(a)]." *Id.* at 154. [The Court] determined this language provides for an automatic and mandatory postponement period that incorporates all of the acts referenced by section 7508A(a). *Id.* at 169.

B. The COVID-19 Emergency Demonstrates the Need for Mandatory Disaster Relief Under I.R.C. § 7508A(d).

In addition to the legal arguments discussed above, the Court should consider the extraordinary circumstances that led Congress to establish a mandatory floor for disaster relief rather than leave all relief to administrative discretion. The COVID-19 pandemic demonstrates the importance of mandatory disaster relief. In an emergency of this magnitude—one that disrupted ordinary governmental, economic, and tax administration functions—Congressional intent was clear that taxpayers should not be left entirely dependent upon the Secretary's discretionary decision to provide relief. This is part of the animating principle behind the mandatory minimum postponement period specified in I.R.C. § 7508A(d). Treasury may administer and enforce the statute, but it may not, by regulation, condition statutory relief under section 7508A(d) upon the Secretary's prior exercise of discretionary authority under section 7508A(a).

With this framework in mind, *Abdo* merits closer examination. On December 2, 2019, the Commissioner issued Petitioners Mohamed K. Abdo and Fardowsa J. Farah a notice of deficiency determining an income tax deficiency of $9,634, plus a penalty, for tax year 2018. *Abdo*, 162 T.C. at 150. The notice informed Petitioners that, pursuant to I.R.C. § 6213(a), they had until March 2, 2020, to petition the Tax Court for redetermination of the deficiency. *Id.* at 150. Petitioners mailed their petition on March 17, 2020, and the Court received it on July 10, 2020, after the Court had closed in response to the COVID-19 pandemic. *Id.* at 150.

On March 13, 2020, the President declared a national emergency concerning the COVID-19 outbreak. Proclamation No. 9994, 85 Fed. Reg. 15,337 (Mar. 18, 2020). The proclamation declared the national emergency effective beginning March 1, 2020. Subsequent federal disaster declarations identified January 20, 2020 as the beginning of the COVID-19 incident period. *See*, Fed. Emergency Mgmt. Agency, New York COVID-19 Pandemic (DR-4480-NY), FEMA, https://www.fema.gov/disaster/4480 (last visited Aug. 27, 2026) (identifying Jan. 20, 2020, as the beginning of the incident period).

In response to the federal emergency declaration, the Department of the Treasury and the Internal Revenue Service issued a series of notices which purported to exercise discretionary authority under I.R.C. § 7508A(a) to postpone certain tax-related deadlines. *Abdo*, 162 T.C. at 151. Among these pronouncements, Notice 2020-23 provided relief to affected taxpayers with specified federal tax-payment, return-filing, and other filing obligations due on or after April 1, 2020, and before July 15, 2020. Notice 2020-23, 2020-18 I.R.B. 742.

Respondent moved to dismiss the petition in *Abdo* as untimely arguing that the relief provided is discretionary. *Abdo*, 162 T.C. at 148. The Court in *Abdo* rejected Respondent's argument, stating that "(R)espondent's regulation, promulgated after the petition in this case was filed, cannot change the result dictated by an unambiguous statute." *Id.* at 168.

C. I.R.C. § 7508A(d) Provides an Automatic 60-Day Postponement During a Federally Declared Disaster

Given that I.R.C. § 6213(a) establishes the deadline for filing a petition and that I.R.C. § 7508A(d) provides for the postponement of that deadline during a federally declared disaster, should not the deadline be automatically postponed without requiring the taxpayer to show that the Secretary separately exercised discretionary authority under I.R.C. § 7508A(a)? *See Abdo*, 162 T.C. at 167–68.

The Committee on Finance of the United States Senate, during its sessions, repeatedly referred to the importance of providing relief during the COVID-19 pandemic and recognized the IRS's efforts, particularly with respect to implementing tax measures to provide relief for individuals and businesses. *2020 Filing Season and IRS COVID-19 Recovery: Hearing Before the S. Comm. On Fin.*, 116th Cong. 6, 18, 39. These statements demonstrate that Congress intended to provide meaningful relief to taxpayers affected by the circumstances of the COVID-19 pandemic. It is also clear that the IRS undertook efforts to implement such relief, as it should.

Against this backdrop, Treasury's decision to interpret I.R.C. § 7508A(d) in a way that limited the statute's mandatory relief, rather than allowing the 60-day postponement to operate automatically, as prescribed by Congress, warrants particularly close examination. The *Abdo* case presents a question of statutory coordination, not statutory conflict. *Abdo*, 162 T.C. at 167–68.

In chronological order, I.R.C. § 6213 governs first, followed by the postponement of the applicable deadline pursuant to the emergency declaration and, subsequently, by the immediate and automatic operation of I.R.C. § 7508A(d). *Abdo*, 162 T.C. at 158.

Applying that reasoning, *Abdo* held that the taxpayers' March 17, 2020, petition was timely because the mandatory COVID-19 postponement period ran from January 20, 2020, through March 20, 2020, even though the ordinary I.R.C. § 6213(a) deadline had been March 2, 2020. *Abdo*, 162 T.C. at 169 & n.13. See also *Sanders v. Comm'r*, 161 T.C. 112, 114 (2023).

D. Treasury's Regulation Cannot Override the Mandatory Relief Provided by I.R.C. § 7508A(d).

Although it seemed very clear that I.R.C. § 7508A(d) incorporates the acts described in I.R.C. § 7508(a)(1)(A) through (F), including the filing of a petition with the Tax Court under I.R.C. § 7508(a)(1)(C), on June 11, 2021, the Treasury Department and the IRS issued final regulations with respect to I.R.C. § 7508A(d). *Abdo v. Comm'r*, 162 T.C. 148, 152 (2024). 26 C.F.R. § 301.7508A-1(g) was made applicable to disasters declared on or after December 21, 2019, and purported to limit the mandatory postponement under I.R.C. § 7508A(d) to acts that the Secretary had separately identified for postponement under I.R.C. § 7508A(a). 26 C.F.R. § 301.7508A-1(g). If Respondent issued Petitioners a notice of deficiency on December 2, 2019, and Petitioners filed their petition in March 2020, how could a regulation issued years later alter the result required by an unambiguous statute? *Abdo*, 173 T.C. at 173. Allowing a subsequently issued regulation to override the result dictated by an unambiguous statute would undermine taxpayers' legal certainty and confidence in the stability of the tax system. *Niz-Chavez v. Garland*, 593 U.S. 155, 172 (2021). ("As this Court has long made plain, pleas of administrative inconvenience and self-serving regulations never 'justify departing from the statute's clear text.'"). After concluding that I.R.C. § 7508A(d) unambiguously provides for a mandatory and automatic extension of at least 60 days for filing a petition with the Tax Court, the logical consequence would be that 26 C.F.R. § 301.7508A-1(g)(1) and (2) is considered invalid and not applicable to *Abdo*'s case. *Abdo*, 162 T.C. at 168. If Congress had already made that relief automatic, it can be concluded that Treasury exceeded its authority by limiting the statute through regulation. *Pereira v. Sessions,* 585 U.S. 198, 208 (2018) ("If the intent of Congress is clear, that is the end of the matter; for the court, as well as the agency, must give effect to the unambiguously expressed intent of Congress.") (quoting *Chevron U.S.A. Inc. v. Nat. Res. Def. Council, Inc.*, 467 U.S. 837, 842–43 (1984)).

Congress had already made that relief automatic, suggesting that the Treasury exceeded its authority by limiting the statute through regulation. *Abdo*, 162 T.C. at 162 ("We first consider the mandatory nature of subsection (d). [. . .] the mandatory language of subsection (d) stands in stark contrast to the discretionary language of subsection (a)."). The distinction between the discretionary authority conferred under I.R.C. § 7508A(a) and the mandatory language of I.R.C. § 7508A(d) supports this conclusion. *Abdo*, 162 T.C. at 162 ("The mandatory language of subsection (d), however, provides the Secretary no discretion."). *Id.*

The practical consequences of this interpretation go beyond the filing deadlines at issue in *Abdo*. Because I.R.C. § 7508A requires the covered period to be disregarded for specified acts, its interpretation also affects tax obligations that become due during that period, including the accrual of penalties and interest. I.R.C. § 7508A(a). Allowing penalties or interest to accrue while a taxpayer is within a period that Congress has directed to be disregarded would limit the relief Congress intended to provide and could unfairly burden taxpayers affected by a qualifying disaster or other event. Victims of Terrorism Tax Relief Act of 2001, Pub. L. No. 107-134, § 112(a), 115 Stat. 2427, 2434 (2002) (amending I.R.C. § 7508A to include "(2) the amount of any interest, penalty, additional amount, or addition to the tax for periods after such date, and"). *Abdo* therefore establishes an important principle, when Congress provides that a period "shall be disregarded," that period must be treated as though it did not count for the purposes covered by the statute. *Abdo*, 162 T.C. at 163 ("Instead, subsection (d) provides that, for a defined person, a defined period 'shall be disregarded' in a defined manner. On the basis of the plain and literal language of the statute, we thus read Congress to have clearly intended to provide for a postponement period that is mandatory."). *Id.*

II. DISREGARDED TIME PERIOD DUE TO COVID-19 DISASTER DECLARATION WITH RESPECT TO CERTAIN DEADLINES.

A. Length of Automatic Extension Window in Accordance with IRC §7508A in Effect During the COVID-19 Disaster Period

In the underlying deficiency proceeding in *Wepplo*, the United States Tax Court entered a decision concerning Petitioners' income tax liablities for tax years 2015, 2016, and 2017. *Wepplo v. Commissioner*, Docket No. 36722-21, Decision (T.C. May 12, 2025). In addition to the underpayment of income tax, the Court further determined that the Petitioners owed interest and interest on penalties that accrued from the time the tax was due to the date of the Court decision on May 12, 2025. The calculation of the interest and penalties includes the time period during which a federal disaster was declared by President Donald Trump under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. §§ 5121–5207, with regards to the COVID-19 pandemic, which began on January 20, 2020 and ended May 11, 2023. On April 10, 2026, less than one year after the Court decision, the Petitioners filed a motion to redetermine the interest amount assessed.

The COVID-19 pandemic was an unprecedented historical event, causing financial strain on many Americans, for which the United States Government provided $4.65 trillion of relief over six separate laws, U.S. Gov't Accountability Off., GAO-23-106647, *COVID-19 Relief: Funding and Spending as of Jan. 31, 2023*, at 10 (2023). A Federal Reserve survey found that nearly 20% of adults reported that they had either lost a job or experienced a reduction in hours in March 2020. Bd. of Governors of the Fed. Rsrv. Sys., *Update on the Economic Well-Being of U.S. Households: July 2020 Results* 2 (2020). The survey further documented substantial financial hardship resulting from pandemic-related employment disruptions. *Id.* at 5–6. The government responded to these financial struggles by passing many bills offering relief, including the CARES Act, which included a provision to pause interest accrual on student loans, Coronavirus Aid, Relief, and Economic Security Act, Pub. L. No. 116-136, § 3513(b), 134 Stat. 281, 404 (2020).

I.R.C. § 7508A(d)(1) (2018) from the 2019 version of the Internal Revenue Code, which was in effect at the declaration of the COVID-19 federal emergency, states,

> "In the case of any qualified taxpayer, the period—
>
> (A) beginning on the earliest incident date specified in the declaration to which the disaster area referred to in paragraph (2) relates, and
>
> (B) ending on the date which is 60 days after the latest incident date so specified, shall be disregarded in the same manner as a period specified under subsection (a)."

I.R.C. § 7508A(d)(2)(A) (2018) states that a qualified taxpayer includes "any individual whose principal residence…is located in a disaster area." I.R.C. § 7508A(a) (2018) states

> "In general in the case of a taxpayer determined by the Secretary to be affected by a federally declared disaster (as defined by section 165(i)(5)(A)) or a terroristic or military action (as defined in section 692(c)(2)), the Secretary may specify a period of up to 1 year that may be disregarded in determining, under the internal revenue laws, in respect of any tax liability of such taxpayer—
>
> (1) whether any of the acts described in paragraph (1) of section 7508(a) were performed within the time prescribed therefor (determined without

regard to extension under any other provision of this subtitle for periods after the date (determined by the Secretary) of such disaster or action),

(2) the amount of any interest, penalty, additional amount, or addition to the tax for periods after such date, and

(3) the amount of any credit or refund."

The acts in I.R.C. § 7508(a)(1) (2018) are as follows:

(A) Filing any return of income, estate, gift, employment, or excise tax;

(B) Payment of any income, estate, gift, employment, or excise tax or any installment thereof or of any other liability to the United States in respect thereof;

(C) Filing a petition with the Tax Court, or filing a notice of appeal from a decision of the Tax Court;

(D) Allowance of a credit or refund of any tax;

(E) Filing a claim for credit or refund of any tax;

(F) Bringing suit upon any such claim for credit or refund;

(G) Assessment of any tax;

(H) Giving or making any notice or demand for the payment of any tax, or with respect to any liability to the United States in respect of any tax;

(I) Collection, by the Secretary, by levy or otherwise, of the amount of any liability in respect of any tax;

(J) Bringing suit by the United States, or any officer on its behalf, in respect of any liability in respect of any tax or in respect of any erroneous refund; and

(K) Any other act required or permitted under the internal revenue laws specified by the Secretary.

26 C.F.R. § 301.7508A-1(g)(1), promulgated under I.R.C. § 7508A, provides that "qualified taxpayers (as defined in section 7508A(d)(2)) are entitled to a mandatory 60-day postponement period during which the time to perform those time-sensitive acts is disregarded in the same manner as under section 7508A(a)."

In 2021, Congress amended I.R.C. § 7508A(d) to change the mandatory extension period to begin on the earliest date specified in the disaster declaration and to end 60 days after the later of the earliest date specified or the issue date of the disaster declaration. Infrastructure Investment and Jobs Act, Pub. L. No. 117-58, div. H, § 80501(a)(1)(B), 135 Stat. 429, 1341 (2021). The effective date of this change was the date of the Act on August 1, 2021. *Id.* at § 80501(b). Congress could have chosen to make this change retroactive but did not. This aligns with the U.S. Government's COVID-19 relief actions which intended to reduce financial strain on Americans.

The Petitioners were residents of California during the time period which was declared a federal disaster in the state from January 20, 2020 to May 11, 2023. This makes them a qualified taxpayer under I.R.C. § 7508A(d)(2)(A) (2018), to which I.R.C. § 7508A(d)(1) (2018) and 26 C.F.R. § 301.7508A-1(g) apply. Each of these applicable sections entitle the Petitioners to a mandatory 60-day extension period for the acts described in I.R.C. § 7508(a)(1) (2018) beginning on the "latest incident so specified" in the disaster declaration which is May 11, 2023 in this case. The 60-day mandatory extension period begins on May 11, 2023 and ends July 10, 2023. Therefore, the entire period which must be disregarded begins on January 20, 2020 (the earliest incident date specified) and ends on July 10, 2023 (60 days after the latest incident date specified). This period should have been disregarded with respect to I.R.C. § 7508A(a) (2018) and I.R.C. § 7508(a)(1)(B) (2018) for both the calculation of interest and penalties and payment of the income tax due, respectively. Considering the context of COVID-19 impacts on American taxpayers as well as relief opportunities offered by the U.S. Government during this time, honoring the disregarded period with respect to interest and penalty calculation aligns with the Government's relief efforts and in turn benefits taxpayers by reducing the negative financial impact of COVID-19.

Under the version of I.R.C. § 7508A which was amended by Congress in 2021, the disregarded period would have been from January 20, 2020 (the earliest incident date specified) to March 21, 2020 (60 days after the earliest incident date specified). However, this version of I.R.C. § 7508A was put in effect as of the date of the Act, Infrastructure Investment and Jobs Act, Pub. L. No. 117-58, div. H, § 80501(b), 135 Stat. 429, 1341 (2021), on August 1, 2021. By amending I.R.C. § 7508A as such, Congress must have believed the 2019 and 2021 versions of this section could not be interpreted the same, or else an amendment would not have been required.

The United States Court of Federal Claims decision in *Kwong* supports the argument for a disregarded period beginning on January 20, 2020 and ending on July 10, 2023. *Kwong v. United States*, 179 Fed. Cl. 382, 136 A.F.T.R.2d 2025-6609 (2025). The plaintiff in *Kwong* similarly argued that the COVID-19 disaster period should be disregarded for the acts specified in I.R.C. § 7508(a)(1) (2018). The United States argued against Kwong first that the 2021 version of I.R.C. § 7508A applies to the COVID-19 disaster period and second that the 2019 version of I.R.C. § 7508A uses January 20, 2020 as the start of the mandatory 60-day extension period. *Kwong*, 179 Fed. Cl. at 386. The Court rejected both of these arguments, siding with the plaintiff in that the automatic extension for the COVID-19 disaster period began on January 20, 2020 and ended on July 10, 2023. *Id.* at 390.

B. Lack of IRS Authority to Shorten the Mandatory Extension Period

During the COVID-19 pandemic, the IRS issued several Notices updating certain deadlines, I.R.S. Notice 2020-18, 2020-15 I.R.B. 590; I.R.S. Notice 2020-20, 2020-16 I.R.B. 660; I.R.S. Notice 2020-23, 2020-18 I.R.B. 742; I.R.S. Notice 2021-21, 2021-15 I.R.B. 986; I.R.S. Notice 2022-36, 2022-36 I.R.B. 188; and I.R.S. Notice 2023-21, 2023-11 I.R.B. 563. These Notices were meant to provide relief to taxpayers based on the IRS's incorrect interpretation of I.R.C. § 7508A, which led the IRS to believe the 60-day extension period began on January 20, 2020 and ended on March 21, 2020. *Kwong v. United States*, 179 Fed. Cl. 382 at 389, 388 (2025).

Though the intention of the IRS was to provide relief, these notices had the opposite effect by shortening the mandatory relief period offered to taxpayers by law. According to the Taxpayer Bill of Rights, taxpayers are entitled to "the right to pay only the amount of tax legally due, including interest and penalties." IRS, Taxpayer Bill of Rights. Adhering to the updated deadlines in the IRS notices mentioned above would cause a taxpayer to pay more tax than is legally required in the form of interest and penalties, which not only violates the taxpayer's rights but also causes undue financial hardship during a federally declared disaster period.

The Supreme Court decision in *Loper Bright* overruled the precedent in *Chevron* that required courts to defer to agencies' interpretation of ambiguous law. *Loper Bright Enters. v. Raimondo*, 603 U.S. 369 (2024); *Chevron U.S.A. Inc. v. Nat. Res. Def. Council, Inc.*, 467 U.S. 837 (1984). Instead, the Court decided that final interpretation of legislation is the responsibility of the courts alone. *Loper Bright,* 603 U.S. at 385, 387. The Supreme Court opinion further clarifies that courts are responsible for "all questions of the law," even when the law is ambiguous. *Id.* at 392. Courts may rely on interpretations of the agencies, but ultimately it is the judicial branch's responsibility to interpret the law, not the executive's, unless Congress specifically gives an agency the authority to add details or define terms of specific legislation. *Id.* at 394-395.

Because the automatic extension period for a federally declared disaster was codified by Congress in I.R.C. § 7508A for the benefit of American taxpayers, the IRS lacked the authority to shorten the window under *Loper Bright*, and violated the Taxpayer Bill of Rights by attempting to do so. The Court of Federal Claims reinforced this idea in its decision in Kwong when it rejected the IRS notices that shortened the automatic extension period. *Kwong*, 179 Fed. Cl. at 388. Therefore, the IRS has no legal basis to include the disaster period from January 20, 2020 to July 10, 2023 in its interest and penalty calculations for income tax due by Michael J. Wepplo and Tatyana R. Wepplo.

CONCLUSION

The Court should hold that section 7508A(d), as applicable to the COVID-19 disaster, required the period beginning January 20, 2020 and ending July 10, 2023, to be disregarded in determining interest and applicable filing deadlines. Accordingly, interest should not accrue during that period on unpaid tax liabilities, irrespective of when the underlying liabilities arose.

Respectfully submitted,

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Dated: August 28, 2026

Counsel for Amicus Curiae

CERTIFICATE OF SERVICE

This is to certify that Aprio Advisory Group, LLC (Aprio) served on August 28, 2026 the foregoing Brief of Aprio Advisory Group, LLC as *Amicus Curiae* in Support of Petitioners on the parties on August 28, 2026, by delivering the same, via email delivery, to the email addresses shown in the Docket Record, including

Vincent A. Gonzalez, at vincent.a.gonzalez@irscounsel.treas.gov;
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Counsel for Aprio has communicated with the parties through the email addresses listed above, and has received responses confirming that those addresses are current and actively used.

/s/ Julia D. Brent

Julia D. Brent
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August 28, 2026

Counsel for Amicus Curiae

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