

Tax Court
18336-19L
Foley, C.J.

United States Court of Appeals
FOR THE
SECOND CIRCUIT

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 2nd day of August, two thousand twenty-two.

Present:

José A. Cabranes,
Alison J. Nathan,
*Circuit Judges.**

Josefa Castillo,

Petitioner-Appellant,

v.

20-1635



Commissioner of Internal Revenue,

Respondent-Appellee.

Appellant moves for the Court to terminate a previously imposed stay, to summarily reverse a Tax Court order dismissing her petition as untimely, and to remand for further proceedings. Appellee opposes summary reversal, and argues instead for summary vacatur and remand. Upon due consideration, it is hereby ORDERED that the request to terminate the stay is GRANTED. It is further ordered that the request for summary reversal is DENIED, but the Tax Court order is VACATED, and the action is REMANDED for further proceedings in light of the Supreme Court's decision in *Boechler, P.C. v. Commissioner of Internal Revenue* 142 S. Ct. 1493 (2022). See 28 U.S.C. § 2106; *Lawrence v. Chater*, 516 U.S. 163, 167 (1996) (per curiam) (discussing circumstances warranting summary vacatur and remand).

FOR THE COURT:

Catherine O'Hagan Wolfe, Clerk of Court

* Judge Joseph F. Bianco has recused himself from consideration of this motion. Pursuant to Second Circuit Internal Operating Procedure E(b), the matter is being decided by the two remaining members of the panel.