



# United States Tax Court

Washington, DC 20217

DAVID SHERMAN,

Petitioner

v.

COMMISSIONER OF INTERNAL  
REVENUE,

Respondent

Docket No. 11951-20L

## ORDER

This is a “collection due process” (“CDP”) case brought under section 6330(d). The petition was filed not 30 days after IRS Appeals issued its notice of determination (as required by section 6330(d)(1)) but 31 days after. The Commissioner therefore filed a motion (Doc. 9) to dismiss the case for lack of jurisdiction; and we granted the motion and issued an “Order of Dismissal for Lack of Jurisdiction” (Doc. 11). However, on April 21, 2022, the U.S. Supreme Court issued its opinion in *Boechler, P.C. v. Commissioner*, No. 20-1472, holding that the 30-day deadline in section 6330(d)(1) is not jurisdictional but rather is subject to equitable tolling. We therefore issued an order (Doc. 12) vacating the order of dismissal, and we ordered the parties to file a status report. Each party filed a report, and the Commissioner’s report states that he intends to file a motion for summary judgment. It is

ORDERED that, no later than November 7, 2022, the Commissioner shall file a motion for summary judgment or another appropriate filing.

**(Signed) David Gustafson**  
**Judge**

**Served 10/06/22**