



United States Tax Court

Washington, DC 20217

ASSURE HEALTHCARE PROVIDERS, INC./
DAUGHTERS OF ESTHER FELLOWSHIP,

Petitioner

v.

COMMISSIONER OF INTERNAL
REVENUE,

Respondent

Docket No. 10409-22L

ORDER

Pending before the Court is respondent's Motion to Dismiss for Lack of Jurisdiction, filed July 11, 2022. On August 31, 2022, petitioner filed a Response to Motion to Dismiss for Lack of Jurisdiction. Neither party addresses the application of *Boechler, P.C. v. Commissioner*, No. 20-1472 (April 21, 2022), in which the Supreme Court held that the provisions relied upon by respondent, are not jurisdictional and rather may be subject to equitable tolling. The Supreme Court's analysis may apply equally to the years in this case which were petitioned but were not the subject of a notice of determination. Given the circumstances, we find the parties have not adequately addressed the critical jurisdiction issues in this case. Accordingly, it is hereby

ORDERED that each party is directed on or before January 17, 2023, to file with the Court a memorandum as to their position regarding the application of *Boechler* to the facts of this case and to address whether "determination" under section 6330(d)(1) includes an alternative hearing result when equitable tolling would have required respondent to apply the hearing procedures for a timely administrative hearing request.

(Signed) Joseph Robert Goeke
Judge

Served 11/07/22