

October 30, 2023

Kaplan Financial Education

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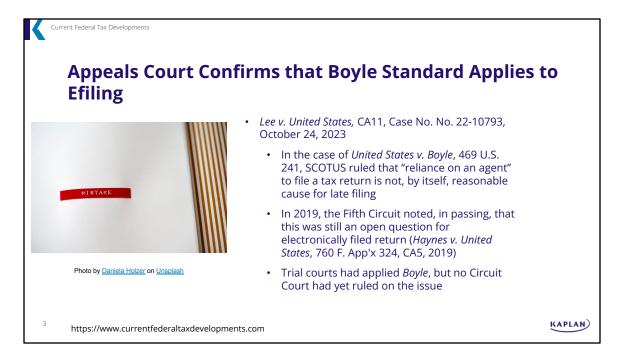
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Taxpayers can't rely on paid preparer as reasonable cause for late filing, even when using electronic filing

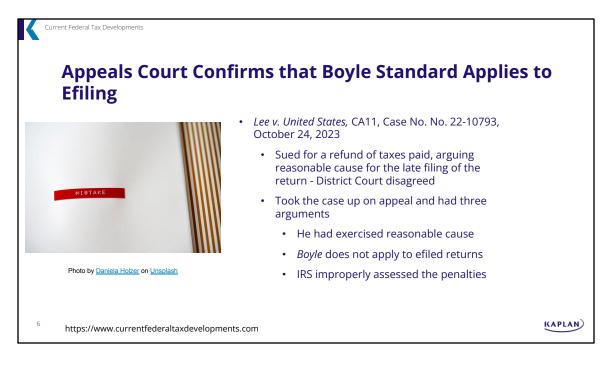
IRS could assert negligence penalty (and obtain supervisory approval) after failing to obtain approval for substantial underpayment penalty

IRS makes "temporary" electronic signature program permanent by moving it into the Internal Revenue Manual

























### Multiple Penalties Exist in IRC §6662 for Supervisory Approval Standard



- Kelley v. Commissioner, T.C. Memo. 2023-126, October 23, 2023
  - Was a return filed asserting various discredited arguments - but the IRS initially refunded all taxes
  - Later automated reported system issued a notice of deficiency and added a substantial underpayment penalty under IRC §6662(a), (b)(2)
  - Did not obtain necessary supervisory approval under IRC §6751(b)(1) - so agreed could not collect that penalty

<sup>15</sup> https://www.currentfederaltaxdevelopments.com

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### Multiple Penalties Exist in IRC §6662 for Supervisory Approval Standard



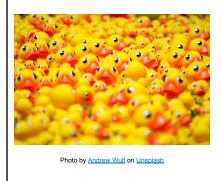
- Kelley v. Commissioner, T.C. Memo. 2023-126, October 23, 2023
  - But in the Answer that conceded the §6662(b)(2) penalty, now asserted a §6662(b)(1) penalty (negligence/disregard of the rules penalty), which also references IRC §6662(a)
  - Taxpayer argues the IRS cannot substitute a \$6662(b)(1) (negligence) penalty when the agency fouls up on a \$6662(b)(2) penalty because both are \$6662 penalties

<sup>16</sup> https://www.currentfederaltaxdevelopments.com

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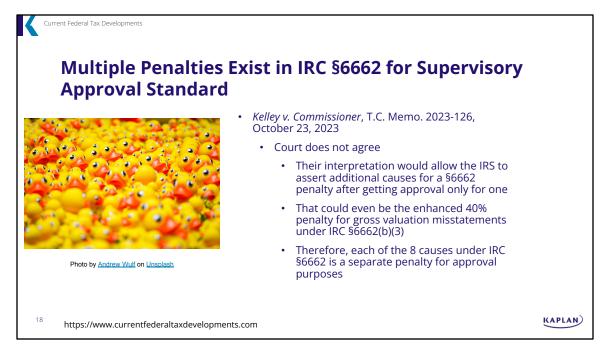
#### Multiple Penalties Exist in IRC §6662 for Supervisory Approval Standard



- *Kelley v. Commissioner*, T.C. Memo. 2023-126, October 23, 2023
  - Supervisory approval must be obtained before first formal communication with the taxpayer that a decision has been made to assert the penalty
  - Taxpayers argue that failing to get approval for a penalty under the broad umbrella of \$6662(a) taints an attempt to use an alternative cause

<sup>17</sup> https://www.currentfederaltaxdevelopments.com

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# IRS Makes Permanent E-Signature Program Started in COVID-19 Pandemic



Photo by Kelly Sikkema on Unsplash

- IRM 10.10.1 IRS Electronic Signature (e-Signature) Program, October 17, 2023
  - IRS decided to officially extend a program which began in August 2020, with more forms added in November 2021 when it was extended again
  - The temporary program was extended through October 2021
  - Temporary list added at IRM Exhibit 10.10.1-2 Deviation from Handwritten Signature Requirement for Limited List of Tax Forms Memorandum

<sup>19</sup> https://www.currentfederaltaxdevelopments.com

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https://www.irs.gov/irm/part10/irm 10-010-001

https://www.taxnotes.com/tax-notes-today-federal/tax-system-administration/irs-decides-ex tend-e-signature-perk-permanently/2023/10/23/7hh1j https://www.taxnotes.com/tax-notes-today-federal/return-preparation/memo-allows-tempora

rv-use-e-signatures-some-forms/2020/08/31/2cwxw

# IRS Makes Permanent E-Signature Program Started in COVID-19 Pandemic



Photo by Kelly Sikkema on Unsplash

- IRM 10.10.1 IRS Electronic Signature (e-Signature) Program, October 17, 2023
  - Exhibit states that "Electronic and digital signatures appear in many forms when printed and may be created by many different technologies. No specific technology is required for these forms."
  - Does not specify whether or not Knowledge Based Authentication required for these forms (does require some form of authentication)

<sup>20</sup> https://www.currentfederaltaxdevelopments.com

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https://www.irs.gov/irm/part10/irm 10-010-001

https://www.taxnotes.com/tax-notes-today-federal/tax-system-administration/irs-decides-ex tend-e-signature-perk-permanently/2023/10/23/7hh1j https://www.taxnotes.com/tax-notes-today-federal/return-preparation/memo-allows-tempora

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