

Department  
of the  
Treasury

Internal  
Revenue  
Service

Office of  
Chief Counsel

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CC-2002-023

May 9, 2002

Tolling of Priority and Dischargeability  
Periods in Bankruptcy after  
Subject: Young v. United States Cancellation Date: Upon Incorporation  
into CCDM

### Purpose

This notice clarifies that, in light of the rationale of Young v. United States, the three-year lookback period of B.C. § 507(a)(8)(A)(i) should not be computed by including an additional six months based on I.R.C. § 6503(h).

### Discussion

The Supreme Court, in Young v. United States, 122 S. Ct. 1036 (2002), held that the three-year lookback period of B. C. § 507(a)(8)(A)(i) is a limitations period subject to equitable tolling. Equitable tolling automatically applies and is appropriate whenever the Internal Revenue Service has been prevented by reason of a prior bankruptcy from collecting its claim, regardless of whether the bankruptcy petition was filed in good faith. Therefore, in accordance with the Young holding, the lookback period of B.C. § 507 is tolled during the pendency of a prior bankruptcy petition. Further, the automatic tolling rule adopted in Young will determine the priority or dischargeability of any tax debt unless a court has issued a final order on the priority or dischargeability of the debt and all applicable appeal periods have expired.

Before Young, certain circuits held that the three-year lookback period was tolled during the period the Service was prohibited from collecting the tax by reason of the prior bankruptcy case, and, in reliance on B.C. § 108(c), for the additional six months provided in I.R.C. § 6503(h). See, e.g., In re West, 5 F.3d 423 (9th Cir. 1993), cert. denied, 511 U.S. 1081(1994); In re Montoya, 965 F.2d 554 (7th Cir. 1992). In light of the rationale of Young, the three-year lookback period of B.C. § 507(a)(8)(A)(i) should not be computed by including an additional six months, based on I.R.C. § 6503(h).

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