## Section 6512.—Limitations in Case of Petition to Tax Court

## Ct.D. 2058

## SUPREME COURT OF THE UNITED STATES

## No. 94–1785

## COMMISSIONER OF INTERNAL REVENUE, PETITIONER v. ROBERT F. LUNDY

## 516 U.S.—

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

January 17, 1996

Syllabus

Respondent Lundy and his wife withheld from their 1987 wages substantially more in federal income taxes than they actually owed for that year, but they did not file their 1987 tax return when it was due, nor did they file a return or claim a refund of the overpaid taxes in the succeeding 2½ years. On September 26, 1990, the Commissioner of Internal Revenue mailed Lundy a notice of deficiency for 1987. Some three months later, the Lundys filed their joint 1987 tax return, which claimed a refund of their overpaid taxes, and Lundy filed a timely petition in the Tax Court seeking a redetermination of the claimed deficiency and a refund. The Tax Court held that where, as here, a taxpayer has not filed a tax return by the time a notice of deficiency is mailed, and the notice is mailed more than two years after the date on which the taxes are paid, a 2-year ''look-back'' period applies under 26 U. S. C. § 6512(b)(3)(B), and the court lacks jurisdiction to award a refund. The Fourth Circuit reversed, finding that the applicable look-back period in these circumstances is three years and that the Tax Court had jurisdiction to award a refund.

*Held:* The Tax Court lacks jurisdiction to award a refund of taxes paid more than two years prior to the date on which the Commissioner mailed the taxpayer a notice of deficiency, if, on the date that the notice was mailed, the taxpayer had not yet filed a return. In these circumstances, the applicable look-back period under § 6512(b)(3)(B) is two years.

(a) Section 6512(b)(3)(B) forbids the Tax Court to award a refund unless it first determines that the taxes were paid ''within the [look-back] period which would be applicable under section 6511(b)(2) . . . if on the date of the mailing of the notice of deficiency a claim [for refund] had been filed.'' Section § 6511(b)(2)(A) in turn instructs the court to apply a 3-year look-back period if a refund claim is filed, as required by § 6511(a), ''within 3 years from the time the return was filed,'' while § 6511(b)(2)(B) specifies a 2-year look-back period if the refund claim is not filed within that 3-year period. The Tax Court properly applied the 2-year look-back period to Lundy's case because, as of September 26, 1990 (the date the notice of deficiency was mailed), Lundy had not filed a tax return, and, consequently, a claim filed on that date would not be filed within the 3-year period described in § 6511(a). Lundy's taxes were withheld from his wages, so they are deemed paid on the date his 1987 tax return was due (April 15, 1988), which is more than two years prior to the date the notice of deficiency was mailed. Lundy is therefore seeking a refund of taxes paid outside the applicable look-back period, and the Tax Court lacks jurisdiction to award a refund.

(b) Lundy suggests two alternative interpretations of § 6512(b)(3)(B), neither of which is persuasive. Lundy first adopts the Fourth Circuit's view, which is that the applicable look-back period is determined by reference to the date that the taxpayer *actually filed* a claim for refund, and argues that he is entitled to a 3-year look-back period because his late-filed 1987 tax return contained a refund claim that was filed within three years from the filing of the return itself. This interpretation is contrary to the requirements of the statute and leads to a result that Congress could not have intended, as it in some circumstances subjects a timely filer of a return to a shorter limitations period in Tax Court than a delinquent filer. Lundy's second argument, that the ''claim'' contemplated by § 6512(b)(3)(B) can only be a claim filed on a tax return, such that a uniform 3-year look-back period applies under that section, is similarly contrary to the language of the statute.

(c) This Court is bound by § 6512(b)(3)(B)'s language as it is written, and even if the Court were persuaded by Lundy's policy-based arguments for applying a 3-year look-back period, the Court is not free to rewrite the statute simply because its effects might be susceptible of improvement.

45 F. 3d 856, reversed.

O'CONNOR, J., delivered the opinion of the Court, in which REHNQUIST, C. J., and SCALIA, KENNEDY, SOUTER, GINSBURG, and BREYER, JJ., joined. STEVENS, J., filed a dissenting opinion. THOMAS, J., filed a dissenting opinion, in which STEVENS, J., joined.

JUSTICE O'CONNOR delivered the opinion of the Court.

In this case, we consider the ''look-back'' period for obtaining a refund of overpaid taxes in the United States Tax Court under 26 U.S.C. § 6512(b)(3)(B), and decide whether the Tax Court can award a refund of taxes paid more than two years prior to the date on which the Commissioner of Internal Revenue mailed the taxpayer a notice of deficiency, when, on the date the notice of deficiency was mailed, the taxpayer had not yet filed a return. We hold that in these circumstances the 2-year look-back period set forth in § 6512(b)(3)(B) applies, and the Tax Court lacks jurisdiction to award a refund.

I

During 1987, respondent Robert F. Lundy and his wife had $10,131 in federal income taxes withheld from their wages. This amount was substantially more than the $6,594 the Lundys actually owed in taxes for that year, but the Lundys did not file their 1987 tax return when it was due, nor did they file a return or claim a refund of the overpaid taxes in the succeeding two and a half years. On September 26, 1990, the Commissioner of Internal Revenue mailed Lundy a notice of deficiency, informing him that he owed $7,672 in additional taxes and interest for 1987 and that he was liable for substantial penalties for delinquent filing and negligent underpayment of taxes, see 26 U. S. C. §§ 6651(a)(1) and 6653(1).

Lundy and his wife mailed their joint tax return for 1987 to the Internal Revenue Service (IRS) on December 22, 1990. This return indicated that the Lundys had overpaid their income taxes for 1987 by $3,537 and claimed a refund in that amount. Two days after the return was mailed, Lundy filed a timely petition in the Tax Court seeking a redetermination of the claimed deficiency and a refund of the couple's overpaid taxes. The Commissioner filed an answer generally denying the allegations in Lundy's petition. Thereafter, the parties negotiated towards a settlement of the claimed deficiency and refund claim. On March 17, 1992, the Commissioner filed an amended answer acknowledging that Lundy had filed a tax return and that Lundy claimed to have overpaid his 1987 taxes by $3,537.

The Commissioner contended in this amended pleading that the Tax Court lacked jurisdiction to award Lundy a refund. The Commissioner argued that if a taxpayer does not file a tax return before the IRS mails the taxpayer a notice of deficiency, the Tax Court can only award the taxpayer a refund of

taxes paid within two years prior to the date the notice of deficiency was mailed. See 26 U.S.C. § 6512(b)(3)(B). Under the Commissioner's interpretation of § 6512(b)(3)(B), the Tax Court lacked jurisdiction to award Lundy a refund because Lundy's withheld taxes were deemed paid on the date that his 1987 tax return was due (April 15, 1988), see § 6513(b)(1), which is more than two years before the date the notice was mailed (September 26, 1990).

The Tax Court agreed with the position taken by the Commissioner and denied Lundy's refund claim. Citing an unbroken line of Tax Court cases adopting a similar interpretation of § 6512(b)(3)(B), *e.g. Allen* v. *Commissioner*, 99 T. C. 475, 479–480 (1992); *Galuska* v. *Commissioner*, 98 T. C. 661, 665 (1992); *Berry* v. *Commissioner*, 97 T. C. 339, 344–345 (1991); *White* v. *Commissioner*, 72 T. C. 1126, 1131–1133 (1979) (renumbered statute); *Hosking* v. *Commissioner*, 62 T. C. 635, 642–643 (1974) (renumbered statute), the Tax Court held that if a taxpayer has not filed a tax return by the time the notice of deficiency is mailed, and the notice is mailed more than two years after the date on which the taxes are paid, the look-back period under § 6512(b)(3)(B) is two years and the Tax Court lacks jurisdiction to award a refund. 65 TCM 3011, 3014–3015, RIA TC memo ¶93, 278 (1993).

The Court of Appeals for the Fourth Circuit reversed, finding that the applicable look-back period in these circumstances is three years and that the Tax Court had jurisdiction to award Lundy a refund. 45 F. 3d 856, 861 (1995). Every other Court of Appeals to have addressed the question has affirmed the Tax Court's interpretation of § 6512(b)(3)(B), see *Davison* v. *Commissioner*, 9 F. 3d 1538 (CA2 1993) (unpublished disposition); *Allen* v. *Commissioner*, 23 F. 3d 406 (CA6 1994) (unpublished disposition); *Galuska* v. *Commissioner*, 5 F. 3d 195, 196 (CA7 1993); *Richards* v. *Commissioner*, 37 F. 3d 587, 589 (CA10 1994); see also *Rossman* v. *Commissioner*, 46 F. 3d 1144 (CA9 1995) (unpublished disposition) (affirming on other grounds). We granted certiorari to resolve the conflict, 515 U. S. ___ (1995), and now reverse.

II

A taxpayer seeking a refund of overpaid taxes ordinarily must file a timely claim for a refund with the Internal Revenue Service (IRS) under 26 U. S. C. § 6511.[1] That section contains two separate provisions for determining the timeliness of a refund claim. It first establishes a *filing deadline:* The taxpayer must file a claim for a refund "within 3 years from the time the return was filed or 2 years from the time the tax was paid, whichever of such periods expires the later, or if no return was filed by the taxpayer, within 2 years from the time the tax was paid." § 6511(b)(1) (incorporating by reference § 6511(a)). It also defines two *"look-back" periods:* If the claim is filed "within 3 years from the time the return was filed," *ibid.*, then the taxpayer is entitled to a refund of "the portion of the tax paid within the 3 years immediately preceding the filing of the claim." § 6511(b)(2)(A) (incorporating by reference § 6511(a)). If the claim is not filed within that 3-year period, then the taxpayer is entitled to a refund of only that "portion of the tax paid during the 2 years immediately preceding the filing of the claim." § 6511(b)(2)(B) (incorporating by reference § 6511(a)).

Unlike the provisions governing refund suits in United States District Court or the United States Court of Federal Claims, which make timely filing of a refund claim a jurisdictional prerequisite to bringing suit, see 26 U.S.C. § 7422(a); *Martin* v. *United States*, 833 F. 2d 655, 658–659 (CA7 1987), the restrictions governing the Tax Court's authority to award a refund of overpaid taxes incorporate only the look-back period and not the filing deadline from § 6511. See 26 U.S.C. § 6512(b)(3).[2] Consequently, a taxpayer who seeks a refund in the Tax Court, like respondent, does not need to actually file a claim for refund with the IRS; the taxpayer need only show that the tax to be refunded was paid during the applicable look-back period.

[1] In relevant part, 26 U. S. C. § 6511 provides:

"(a) Period of limitation on filing claim

Claim for credit or refund of an overpayment of any tax imposed by this title in respect of which tax the taxpayer is required to file a return shall be filed by the taxpayer within 3 years from the time the return was filed or 2 years from the time the tax was paid, whichever of such periods expires the later, or if no return was filed by the taxpayer, within 2 years from the time the tax was paid. Claim for credit or refund of an overpayment of any tax imposed by this title which is required to be paid by means of a stamp shall be filed by the taxpayer within 3 years from the time the tax was paid.

"(b) Limitation on allowance of credits and refunds

"(1) Filing of claim within prescribed period

No credit or refund shall be allowed or made after the expiration of the period of limitation prescribed in subsection (a) for the filing of a claim for credit or refund, unless a claim for credit or refund is filed by the taxpayer within such period.

"(2) Limit on amount of credit or refund

"(A) Limit where claim filed within 3-year period

If the claim was filed by the taxpayer during the 3-year period prescribed in subsection (a), the amount of the credit or refund shall not exceed the portion of the tax paid within the period, immediately preceding the filing of the claim, equal to 3 years plus the period of any extension of time for filing the return. If the tax was required to be paid by means of a stamp, the amount of the credit or refund shall not exceed the portion of the tax paid within the 3 years immediately preceding the filing of the claim.

"(B) Limit where claim not filed within 3-year period

If the claim was not filed within such 3-year period, the amount of the credit or refund shall not exceed the portion of the tax paid during the 2 years immediately preceding the filing of the claim.

"(C) Limit if no claim filed

If no claim was filed, the credit or refund shall not exceed the amount which would be allowable under subparagraph (A) or (B), as the case may be, if claim was filed on the date the credit or refund is allowed."

[2] In relevant part, 26 U. S. C. § 6512(b) provides:

"(1) Jurisdiction to determine

Except as provided by paragraph (3) and by section 7463, if the Tax Court finds that there is no deficiency and further finds that the taxpayer has made an overpayment of income tax for the same taxable year . . . in respect of which the Secretary determined the deficiency, or finds that there is a deficiency but that the taxpayer has made an overpayment of such tax, the Tax Court shall have jurisdiction to determine the amount of such overpayment, and such amount shall, when the decision of the Tax Court has become final, be credited or refunded to the taxpayer.

. . . . .

"(3) Limit on amount of credit or refund

No such credit or refund shall be allowed or made of any portion of the tax unless the Tax Court determines as part of its decision that such portion was paid—

"(A) after the mailing of the notice of deficiency,

"(B) within the period which would be applicable under section 6511(b)(2), (c), or (d), if on the date of the mailing of the notice of deficiency a claim had been filed (whether or not filed) stating the grounds upon which the Tax Court finds that there is an overpayment, or

"(C) within the period which would be applicable under section 6511(b)(2), (c), or (d), in respect of any claim for refund filed within the applicable period specified in section 6511 and before the date of the mailing of the notice of deficiency"

"(i) which had not been disallowed before that date,

"(ii) which had been disallowed before that date and in respect of which a timely suit for refund could have been commenced as of that date, or

"(iii) in respect of which a suit for refund had been commenced before that date and within the period specified in section 6532."

In this case, the applicable look-back period is set forth in § 6512(b)(3)(B), which provides that the Tax Court cannot award a refund of any overpaid taxes unless it first determines that the taxes were paid:

> ''within the period which would be applicable under section 6511(b)(2) . . . if on the date of the mailing of the notice of deficiency a claim had been filed (whether or not filed) stating the grounds upon which the Tax Court finds that there is an overpayment.''

The analysis dictated by § 6512(b)(3)(B) is not elegant, but it is straightforward. Though some courts have adverted to the filing of a ''deemed claim,'' see *Galuska*, 5 F. 3d, at 196; *Richards*, 37 F. 3d, at 589, all that matters for the proper application of § 6512(b)(3)(B) is that the ''claim'' contemplated in that section be treated as the only mechanism for determining whether a taxpayer can recover a refund. Section 6512(b)(3)(B) defines the look-back period that applies in Tax Court by incorporating the look-back provisions from § 6511(b)(2), and directs the Tax Court to determine the applicable period by inquiring into the timeliness of a hypothetical claim for refund filed ''on the date of the mailing of the notice of deficiency.''

To this end, § 6512(b)(3)(B) directs the Tax Court's attention to § 6511(b)(2), which in turn instructs the court to apply either a 3-year or a 2-year look-back period. See §§ 6511(b)(2)(A) and (B) (incorporating by reference § 6511(a)); see *supra*, at 5. To decide which of these look-back periods to apply, the Tax Court must consult the filing provisions of § 6511(a) and ask whether the claim described by § 6512(b)(3)(B)—a claim filed ''on the date of the mailing of the notice of deficiency''—would be filed ''within 3 years from the time the return was filed.'' See § 6511(b)(2)(A) (incorporating by reference § 6511(a)). If a claim filed on the date of the mailing of the notice of deficiency would be filed within that 3-year period, then the look-back period is also three years and the Tax Court has jurisdiction to award a refund of any taxes paid within three years prior to the date of the mailing of the notice of deficiency. §§ 6511(b)(2)(A) and 6512(b)(3)(B). If the claim would not be filed within that 3-year period, then the period for awarding a refund is only two years. §§ 6511(b)(2)(B) and 6512(b)(3)(B).

In this case, we must determine which of these two look-back periods to apply when the taxpayer fails to file a tax return when it is due, and the Commissioner mails the taxpayer a notice of deficiency before the taxpayer gets around to filing a late return. The Fourth Circuit held that a taxpayer in this situation is entitled to a 3-year look-back period if the taxpayer actually files a timely claim at some point in the litigation, see *infra*, at 10–11, and respondent offers additional reasons for applying a 3-year look-back period, see *infra*, at 13–17. We think the proper application of § 6512(b)(3)(B) instead requires that a 2-year look-back period be applied.

We reach this conclusion by following the instructions set out in § 6512(b)(3)(B). The operative question is whether a claim filed ''on the date of the mailing of the notice of deficiency'' would be filed ''within 3 years from the time the return was filed.'' See *supra*, at 7; § 6512(b)(3)(B) (incorporating §§ 6511(b)(2) and 6511(a)). In the case of a taxpayer who does not file a return before the notice of deficiency is mailed, the claim described in § 6512(b)(3)(B) could not be filed ''within 3 years from the time the return was filed.'' No return having been filed, there is no date from which to measure the 3-year filing period described in § 6511(a). Consequently, the claim contemplated in § 6512(b)(3)(B) would not be filed within the 3-year window described in § 6511(a), and the 3-year look-back period set out in § 6511(b)(2)(A) would not apply. The applicable look-back period is instead the default 2-year period described in § 6511(b)(2)(B), which is measured from the date of the mailing of the notice of deficiency, see § 6512(b)(3)(B). The taxpayer is entitled to a refund of any taxes paid within two years prior to the date of the mailing of the notice of deficiency.

Special rules might apply in some cases, see *e.g.*, § 6511(c) (extension of time by agreement); § 6511(d) (special limitations periods for designated items), but in the case where the taxpayer has filed a timely tax return and the IRS is claiming a deficiency in taxes from that return, the interplay of §§ 6512(b)(3)(B) and 6511(b)(2) generally ensures that the taxpayer can obtain a refund of any taxes against which the IRS is asserting a deficiency. In most cases, the notice of deficiency must be mailed within three years from the date the tax return is filed. See 26 U. S. C. §§ 6501(a) and 6503(a)(1); *Badaracco* v. *Commissioner*, 464 U. S. 386, 389, 392 (1984). Therefore, if the taxpayer has already filed a return (albeit perhaps a faulty one), any claim filed ''on the date of the mailing of the notice of deficiency'' would necessarily be filed within three years from the date the return is filed. In these circumstances, the applicable look-back period under § 6512(b)(3)(B) would be the 3-year period defined in § 6511(b)(2)(A), and the Tax Court would have jurisdiction to award a refund.

Therefore, in the case of a taxpayer who files a timely tax return, § 6512(b)(3)(B) usually operates to toll the filing period that might otherwise deprive the taxpayer of the opportunity to seek a refund. If a taxpayer contesting the accuracy of a previously filed tax return in Tax Court discovers for the first time during the course of litigation that he is entitled to a refund, the taxpayer can obtain a refund from the Tax Court without first filing a timely claim for refund with the IRS. It does not matter, as it would in district court, see § 7422 (incorporating §§ 6511), that the taxpayer has discovered the entitlement to a refund well after the period for filing a timely refund claim with the IRS has passed, because § 6512(b)(3)(B) applies ''whether or not [a claim is] filed,'' and the look-back period is measured from the date of the mailing of the notice of deficiency. *Ibid.* Nor does it matter, as it might in a refund suit, see 26 CFR § 301.6402–2(b)(1) (1995), whether the taxpayer has previously apprised the IRS of the precise basis for the refund claim, because 26 U. S. C. § 6512(b)(3)(B) posits the filing of a hypothetical claim ''stating the grounds upon which the Tax Court finds that there is an overpayment,'' § 6512(b)(3)(B).

Section 6512(b)(3)(B) treats delinquent filers of income tax returns less charitably. Whereas timely filers are virtually assured the opportunity to seek a refund in the event they are drawn into Tax Court litigation, a delinquent filer's entitlement to a refund in Tax Court depends on the date of the mailing of the notice of deficiency. Section 6512(b)(3)(B) tolls the limitations period, in that it directs the Tax Court to measure the look-back period from the date on which the notice of deficiency is mailed and not the date on which the taxpayer actually files a claim for re-

fund. But in the case of delinquent filers, § 6512(b)(3)(B) establishes only a 2-year look-back period, so the delinquent filer is not assured the opportunity to seek a refund in Tax Court: If the notice of deficiency is mailed more than two years after the taxes were paid, the Tax Court lacks jurisdiction to award the taxpayer a refund.

The Tax Court properly applied this 2-year look-back period to Lundy's case. As of September 26, 1990 (the date the notice was mailed), Lundy had not filed a tax return. Consequently, a claim filed on that date would not be filed within the 3-year period described in § 6511(a), and the 2-year period from § 6511(b)(2)(B) applies. Lundy's taxes were withheld from his wages, so they are deemed paid on the date his 1987 tax return was due (April 15, 1988), see 26 U. S. C. § 6513(b)(1), which is more than two years prior to the date the notice of deficiency was mailed (September 26, 1990). Lundy is therefore seeking a refund of taxes paid outside the applicable look-back period, and the Tax Court lacks jurisdiction to award such a refund.

III

In deciding Lundy's case, the Fourth Circuit adopted a different approach to interpreting § 6512(b)(3)(B) and applied a 3-year look-back period. Respondent supports the Fourth Circuit's rationale, but also offers an argument for applying a uniform 3-year look-back period under § 6512(b)(3)(B). We find neither position persuasive. p1The Fourth Circuit held that:

> ''[T]he Tax Court, when applying the limitation provision of § 6511(b)(2) in light of § 6512(b)(3)(B), should substitute the date of the mailing of the notice of deficiency for the date on which the taxpayer filed the claim for refund, but only for the purpose of determining the benchmark date for measuring the limitation period and not for the purpose of determining whether the two-year or three-year limitation period applies.'' 45 F. 3d, at 861.

In other words, the Fourth Circuit held that the look-back period is *measured* from the date of the mailing of the notice of deficiency (*i.e.*, the taxpayer is entitled to a refund of any taxes paid within either two or three years prior to that date), but that that date is irrelevant in calculating the *length* of the look-back period itself. The look-back period, the Fourth Circuit held, must be defined in terms of the date that the taxpayer *actually filed* a claim for refund. *Ibid.* (''[T]he three-year limitation period applies because Lundy filed his claim for refund . . . within three years of filing his tax return''). Thus, under the Fourth Circuit's view, Lundy was entitled to a 3-year look-back period because Lundy's late-filed 1987 tax return contained a claim for refund, and that claim was filed within three years from the filing of the return. *Ibid.* (taxpayer entitled to same look-back period that would apply in district court).

Contrary to the Fourth Circuit's interpretation, the fact that Lundy actually filed a claim for a refund after the date on which the Commissioner mailed the notice of deficiency has no bearing in determining whether the Tax Court has jurisdiction to award Lundy a refund. See *supra*, at 6. Once a taxpayer files a petition with the Tax Court, the Tax Court has exclusive jurisdiction to determine the existence of a deficiency or to award a refund, see 26 U. S. C. § 6512(a), and the Tax Court's jurisdiction to award a refund is limited to those circumstances delineated in § 6512(b)(3). Section 6512(b)(3)(C) is the only provision that measures the look-back period based on a refund claim that is actually filed by the taxpayer, and that provision is inapplicable here because it only applies to refund claims filed ''before the date of the mailing of the notice of deficiency.'' § 6512(b)(3)(C). Under § 6512(b)(3)(B), which is the provision that does apply, the Tax Court is instructed to consider only the timeliness of a claim filed ''on the date of the mailing of the notice of deficiency,'' not the timeliness of any claim that the taxpayer might actually file.

The Fourth Circuit's rule also leads to a result that Congress could not have intended, in that it subjects the timely, not the delinquent, filer to a shorter limitations period in Tax Court. Under the Fourth Circuit's rule, the availability of a refund turns entirely on whether the taxpayer has in fact filed a claim for refund with the IRS, because it is the date of *actual filing* that determines the applicable look-back period under § 6511(b)(2) (and, by incorporation, § 6512(b)(3)(B)). See 45 F. 3d, at 861; see *supra*, at 11. This rule might ''eliminate[] the inequities resulting'' from adhering to the 2-year look-back period, 45 F. 3d, at 863, but it creates an even greater inequity in the case of a taxpayer who dutifully files a tax return when it is due, but does not initially claim a refund. We think our interpretation of the statute achieves an appropriate and reasonable result in this case: The taxpayer who files a timely income tax return could obtain a refund in the Tax Court under § 6512(b)(3)(B), without regard to whether the taxpayer has actually filed a timely claim for refund. See *supra*, at 8–9.

If it is the actual filing of a refund claim that determines the length of the look-back period, as the Fourth Circuit held, the filer of a timely income tax return might be out of luck. If the taxpayer does not file a claim for refund with his tax return, and the notice of deficiency arrives shortly before the 3-year period for filing a timely claim expires, see 26 U. S. C. §§ 6511(a) and (b)(1), the taxpayer might not discover his entitlement to a refund until well after the commencement of litigation in the Tax Court. But having filed a timely return, the taxpayer would be precluded by the passage of time from filing an actual claim for refund ''within 3 years from the time the return was filed,'' as § 6511(b)(2)(A) requires. § 6511(b)(2)(A) (incorporating by reference § 6511(a)). The taxpayer would therefore be entitled only to a refund of taxes paid within two years prior to the mailing of the notice of deficiency. See § 6511(b)(2)(B); 45 F. 3d, at 861–862 (taxpayer entitled to same look-back period as would apply in district court, and look-back period is determined based on date of actual filing). It is unlikely that Congress intended for a taxpayer in Tax Court to be worse off for having filed a timely return, but that result would be compelled under the Fourth Circuit's approach.

Lundy offers an alternative reading of the statute that avoids this unreasonable result, but Lundy's approach is similarly defective. The main thrust of Lundy's argument is that the ''claim'' contemplated in § 6512(b)(3)(B) could be filed ''within 3 years from the time the return was filed,'' such that the applicable look-back period under § 6512(b)(3)(B) would be three years, if the claim were itself filed on a tax return. Lundy in fact argues that Congress must have intended the claim described in § 6512(b)(3)(B) to be a claim filed on a return, because there is no other way to file a claim for refund with the IRS. Brief for Respondent 28, 30 (citing 26 CFR § 301.6402–3(a)(1) (1995). Lundy therefore argues that § 6512(b)(3)(B) incorporates a uni-

form 3-year look-back period for Tax Court cases: If the taxpayer files a timely return, the notice of deficiency (and the ''claim'' under § 6512(b)(3)-(B)) will necessarily be filed within three years of the return and the look-back period is three years; if the taxpayer does not file a return, then the claim contemplated in § 6512(b)(3)(B) is deemed to be a claim filed with, and thus within three years of, a return and the look-back period is again three years. Like the Fourth Circuit's approach, Lundy's reading of the statute has the convenient effect of ensuring that taxpayers in Lundy's position can almost always obtain a refund if they file in Tax Court, but we are bound by the terms Congress chose to use when it drafted the statute, and we do not think that the term ''claim'' as it is used in § 6512(b)(3)(B) is susceptible of the interpretation Lundy has given it. The Internal Revenue Code does not define the term ''claim for refund'' as it is used in § 6512(b)(3)(B), cf. 26 U.S.C. § 6696(e)(2) (''For purposes of section 6694 and 6695 . . . [t]he term 'claim for refund' means a claim for refund of, or credit against, any tax imposed by subtitle A''), but it is apparent from the language of § 6512(b)(3)(B) and the statute as a whole that a claim for refund can be filed separately from a return. Section 6512(b)(3)(B) provides that the Tax Court has jurisdiction to award a refund to the extent the taxpayer would be entitled to a refund ''if on the date of the mailing of the notice of deficiency *a claim* had been filed.'' (Emphasis added.) It does not state, as Lundy would have it, that a taxpayer is entitled to a refund if on that date ''a claim and a return had been filed.''

Perhaps the most compelling evidence that Congress did not intend the term ''claim'' in § 6512 to mean a ''claim filed on a return'' is the parallel use of the term ''claim'' in § 6511(a). Section 6511(a) indicates that a claim for refund is timely if it is ''filed by the taxpayer within 3 years from the time the return was filed,'' and it plainly contemplates that a claim can be filed even ''if no return was filed.'' 26 U.S.C. § 6511(a). If a claim could *only* be filed with a return, as Lundy contends, these provisions of the statute would be senseless, cf. 26 U. S. C. § 6696 (separately defining ''claim for refund'' and ''return''), and we have been given no reason to believe that Congress meant the term ''claim'' to mean one thing in § 6511 but to mean something else altogether in the very next section of the statute. The interrelationship and close proximity of these provisions of the statute ''presents a classic case for application of the 'normal rule of statutory construction that identical words used in different parts of the same act are intended to have the same meaning.' '' *Sullivan* v. *Stroop*, 496 U. S. 478, 484 (1990) (quoting *Sorenson* v. *Secretary of Treasury*, 475 U. S. 851, 860 (1986) (internal quotation marks omitted).

The regulation Lundy cites in support of his interpretation, 26 CFR § 301.6402–3(a)(1) (1995), is consistent with our interpretation of the statute. That regulation states only that a claim must ''[i]n general'' be filed on a return, *ibid.*, inviting the obvious conclusion that there are some circumstances in which a claim and a return can be filed separately. We have previously recognized that even a claim that does not comply with federal regulations might suffice to toll the limitations periods under the Tax Code, see, *e.g.*, *United States* v. *Kales*, 314 U. S. 186, 194 (1941) (''notice fairly advising the Commissioner of the nature of the taxpayer's claim'' tolls the limitations period, even if ''it does not comply with formal requirements of the statute and regulations''), and we must assume that if Congress had intended to require that the ''claim'' described in § 6512(b)(3)(B) be a ''claim filed on a return,'' it would have said so explicitly.

## IV

Lundy offers two policy-based arguments for applying a 3-year look-back period under § 6512(b)(3)(B). He argues that the application of a 2-year period is contrary to Congress' broad intent in drafting § 6512(b)(3)(B), which was to preserve, not defeat, a taxpayer's claim to a refund in Tax Court, and he claims that our interpretation creates an incongruity between the limitations period that applies in Tax Court litigation and the period that would apply in a refund suit filed in district court or the Court of Federal Claims. Even if we were inclined to depart from the plain language of the statute, we would find neither of these arguments persuasive.

Lundy correctly argues that Congress intended § 6512(b)(3)(B) to permit taxpayers to seek a refund in Tax Court in circumstances in which they might otherwise be barred from filing an administrative claim for refund with the IRS. This is in fact the way § 6512(b)(3)(B) operates in a large number of cases. See *supra*, at 8–9. But that does not mean that Congress intended that § 6512(b)-(3)(B) would always preserve taxpayers' ability to seek a refund. Indeed, it is apparent from the face of the statute that Congress also intended § 6512(b)(3)(B) to act sometimes as a bar to recovery. To this end, the section incorporates *both* the 2-year and the 3-year look-back periods from § 6511(b)(2), and we must assume (contrary to Lundy's reading, which provides a uniform 3-year period, see *supra*, at 13–14) that Congress intended for both those look-back periods to have some effect. Cf. *Badaracco*, 464 U. S., at 405 (Stevens, J., dissenting) (''Whatever the correct standard for construing a statute of limitations . . . surely the presumption ought to be that some limitations period is applicable''). (Emphasis deleted.)

Lundy also suggests that our interpretation of the statute creates a disparity between the limitations period that applies in Tax Court and the periods that apply in refund suits filed in district court or the Court of Federal Claims. In this regard, Lundy argues that the claim for refund he filed with his tax return on December 28 would have been timely for purposes of district court litigation because it was filed ''within three years from the time the return was filed,'' § 6511(b)(1) (incorporating by reference § 6511(a)); see also Rev. Rul. 76–511, 1976–2 Cum. Bull. 428, and within the 3-year look-back period that would apply under § 6511(b)(2)(A). Petitioner disagrees that there is any disparity, arguing that Lundy's interpretation of the statute is wrong and that Lundy's claim for refund would not have been considered timely in district court. See Brief for Petitioner 12, 29–30 and n. 11 (citing *Miller* v. *United States*, 38 F. 3d 473, 475 (1994)).

We assume without deciding that Lundy is correct, and that a different limitations period would apply in district court, but nonetheless find in this disparity no excuse to change the limitations scheme that Congress has crafted. The rules governing litigation in Tax Court differ in many ways from the rules governing litigation in the district court and the Court of Federal Claims. Some of these differences might make the Tax Court a more favorable forum, while others may not. Compare 26 U. S. C. § 6213(a) (taxpayer can seek relief in Tax Court without first paying an assessment of taxes) with *Flora* v. *United States*, 362 U.S. 145, 177 (1960) (28 U.S.C. § 1346(a)(1) requires full

payment of the tax assessment before taxpayer can file a refund suit in district court); and compare 26 U.S.C. § 6512(b)(3)(B) (Tax Court must assume that the taxpayer has filed a claim ''stating the grounds upon which the Tax Court'' intends to award a refund) with 26 CFR § 301.6402–2(b)(1) (1995) (claim for refund in district court must state grounds for refund with specificity). To the extent our interpretation of § 6512(b)(3)(B) reveals a further distinction between the rules that apply in these fora, it is a distinction compelled by the statutory language, and it is a distinction Congress could rationally make. As our discussion of § 6512-(b)(3)(B) demonstrates, see *supra*, at 8–9, all a taxpayer need do to preserve the ability to seek a refund in the Tax Court is comply with the law and file a timely return.

We are bound by the language of the statute as it is written, and even if the rule Lundy advocates might ''accor[d] with good policy,'' we are not at liberty ''to rewrite [the] statute because [we] might deem its effects susceptible of improvement.'' *Badaracco*, 464 U. S., at 398. Applying § 6512(b)(3)(B) as Congress drafted it, we find that the applicable look-back period in this case is two years, measured from the date of the mailing of the notice of deficiency. Accordingly, we find that the Tax Court lacked jurisdiction to award Lundy a refund of his overwithheld taxes. The judgment is reversed.

*It is so ordered.*