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NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States v. Detroit Timber & Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

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HIBBS, DIRECTOR, ARIZONA DEPARTMENT OF
REVENUE *v.* WINN ET AL.CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR
THE NINTH CIRCUIT

No. 02–1809. Argued January 20, 2004—Decided June 14, 2004

Plaintiffs-respondents, Arizona taxpayers, filed suit in federal court against the Director of Arizona’s Department of Revenue (Director) seeking to enjoin the operation of Ariz. Rev. Stat. Ann. §43–1089 on Establishment Clause grounds. Arizona’s law authorizes an income-tax credit for payments to nonprofit “school tuition organizations” (STOs) that award scholarships to students in private elementary or secondary schools. Section 43–1089 provides that STOs may not designate schools that “discriminate on the basis of race, color, handicap, familial status or national origin,” §43–1089(F), but does not preclude STOs from designating schools that provide religious instruction or give religion-based admissions preferences. The District Court granted the Director’s motion to dismiss on the ground that the Tax Injunction Act (TIA), 28 U. S. C. §1341, barred the suit. The TIA prohibits lower federal courts from restraining “the assessment, levy or collection of any tax under State law where a plain, speedy and efficient remedy may be had in the courts of such State.” The Ninth Circuit reversed, holding that the TIA does not bar federal-court actions challenging state tax credits.

Held:

1. The Court rejects respondents’ contention that the Director’s certiorari petition was jurisdictionally untimely under 28 U. S. C. §2101(c) and this Court’s Rule 13(3). Section 2101(c) instructs that a petition must be filed “within ninety days after the entry of . . . judgment,” and this Court’s Rule 13(3) elaborates on that statute’s instruction. More than 90 days elapsed between the date the Ninth Circuit first entered judgment and the date the Director’s petition was filed. That time lapse, respondents assert, made the filing un-

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timely under Rule 13(3)'s first sentence: "[T]he time to file . . . runs from the date of entry of the judgment or order sought to be reviewed." Moreover, respondents submit, because no party petitioned for rehearing, the extended filing periods prescribed by the Rule's second sentence never came into play. This case, however, did not follow the typical course. The Ninth Circuit, on its own initiative, had recalled its mandate and ordered the parties to brief the question whether the case should be reheard en banc. That order, this Court holds, suspended the judgment's finality under §2101(c), just as a timely filed rehearing petition would or a court's appropriate decision to consider a late-filed rehearing petition, see *Missouri v. Jenkins*, 495 U. S. 33, 49. The Court of Appeals' order raised the question whether that court would modify the judgment and alter the parties' rights; thus, while the court-initiated briefing order was pending, there was no "judgment" to be reviewed. See, *e.g.*, *id.*, at 46. The Director's certiorari petition was timely under the statute because it was filed within 90 days of the date the Ninth Circuit denied rehearing en banc. Were this Court to read Rule 13 as the sole guide, so that only a party's rehearing petition could reset the statute's 90-day count, the Court would lose sight of the congressional objective underpinning §2101(c): An appellate court's final adjudication, Congress indicated, marks the time from which the filing period begins to run. The statute takes priority over the "procedural rules adopted by the Court for the orderly transaction of its business." *Schacht v. United States*, 398 U. S. 58, 64. Because the petition was timely under §2101(c), the Court has jurisdiction. Pp. 5–8.

2. The TIA does not bar respondents' suit. Pp. 8–22.

(a) To determine whether the TIA bars this litigation, it is appropriate, first, to identify the relief sought. Respondents seek prospective relief only: injunctive relief prohibiting the Director from allowing taxpayers to utilize the §43–1089 tax credit for payments to STOs that make religion-based tuition grants; a declaration that §43–1089, on its face and as applied, violates the Establishment Clause; and an order that the Director inform such STOs that all funds in their possession as of the order's date must be paid into the state general fund. Taking account of the prospective nature of the relief requested, the Court reaches the dispositive question whether respondents' suit seeks to "enjoin, suspend or restrain the assessment, levy or collection of any tax under State law," §1341. The answer turns on the meaning of the term "assessment" as employed in the TIA. For Internal Revenue Code (IRC) purposes, an assessment involves a "recording" of the amount the taxpayer owes the Government. 26 U. S. C. §6203. The Court does not focus on the word "assessment" in isolation, however, but follows "the cardinal rule that statutory language must be read in context." *General Dynamics*

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Land Systems, Inc. v. Cline, 540 U. S. ___, ___. In the TIA and tax law generally, an assessment is closely tied to the collection of a tax, *i.e.*, the assessment is the official recording of liability that triggers levy and collection efforts. Complementing the cardinal rule just stated, the rule against superfluities instructs courts to interpret a statute to effectuate all its provisions, so that no part is rendered superfluous. If, as the Director asserts, the term “assessment,” by itself, signified the entire taxing plan, the TIA would not need the words “levy” or “collection”; the term “assessment,” alone, would do all the necessary work. In briefing *United States v. Galletti*, 541 U. S. ___, the Government made clear that, under the IRC definition, an “assessment” serves as the trigger for levy and collection efforts. The Government did not describe “assessment” as synonymous with the entire taxation plan, nor disassociate the word from the company (“levy or collection”) it keeps. Instead, and in accord with this Court’s understanding, the Government related “assessment” to the term’s collection-propelling function. Pp. 8–11.

(b) Congress modeled §1341 on earlier federal statutes of similar import, which in turn paralleled state provisions proscribing state-court actions to enjoin the collection of state and local taxes. Congress drew particularly on the Anti-Injunction Act (AIA), which bars “any court” from entertaining a suit brought “for the purpose of restraining the assessment or collection of any [federal] tax.” 26 U. S. C. §7421(a). This Court has recognized, from the AIA’s text, that the measure serves twin purposes: It responds to the Government’s need to assess and collect taxes expeditiously with a minimum of preenforcement judicial interference; and it requires that the legal right to disputed sums be determined in a refund suit. *E.g.*, *Bob Jones Univ. v. Simon*, 416 U. S. 725, 736. Lower federal courts have similarly comprehended §7421(a). Just as the AIA shields federal tax collections from federal-court injunctions, so the TIA shields state tax collections from federal-court restraints. In both 26 U. S. C. §7421(a) and 28 U. S. C. §1341, Congress directed taxpayers to pursue refund suits instead of attempting to restrain collections. Third-party suits not seeking to stop the collection (or contest the validity) of a tax *imposed on plaintiffs* were outside Congress’ purview. The TIA’s legislative history shows that, in enacting the statute, Congress focused on taxpayers who sought to avoid paying their state tax bill by pursuing a challenge route other than the one specified by the taxing authority. Nowhere does the history announce a sweeping congressional direction to prevent federal-court interference with all aspects of state tax administration. The foregoing understanding of the TIA’s purposes and legislative history underpins this Court’s previous applications of that statute. See, *e.g.*, *California v. Grace Brethren*

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Church, 457 U. S. 393, 408–409. *Id.*, at 410, distinguished. Contrary to the Director’s assertion, *Arkansas v. Farm Credit Servs. of Central Ark.*, 520 U. S. 821; *National Private Truck Council, Inc. v. Oklahoma Tax Comm’n*, 515 U. S. 582; *Fair Assessment in Real Estate Assn., Inc. v. McNary*, 454 U. S. 100; and *Rosewell v. LaSalle Nat. Bank*, 450 U. S. 503, do not hold that state tax administration matters must be kept entirely free from lower federal-court “interference.” Like *Grace Brethren Church*, all of those cases fall within §1341’s undisputed compass: All involved plaintiffs who mounted federal litigation to avoid paying state taxes (or to gain a refund of such taxes). Federal-court relief, therefore, would have operated to reduce the flow of state tax revenue. Those decisions are not fairly portrayed cut loose from their secure, state-revenue-protective moorings. See, e.g., *Grace Brethren Church*, 457 U. S., at 410. This Court has interpreted and applied the TIA only in cases Congress wrote the statute to address, i.e., cases in which state taxpayers seek federal-court orders enabling them to avoid paying state taxes. The Court has read harmoniously the §1341 instruction conditioning the jurisdictional bar on the availability of “a plain, speedy and efficient remedy” in state court. The remedy inspected in the Court’s decisions was not designed for the universe of plaintiffs who sue the State, but was tailor-made for taxpayers. See, e.g., *id.*, at 411. Pp. 11–17.

(c) In other federal courts as well, §1341 has been read to restrain taxpayers from instituting federal actions to contest their liability for state taxes, but not to stop third parties from pursuing constitutional challenges to state tax benefits in a federal forum. Further, numerous federal-court decisions—including decisions of this Court reviewing lower federal-court judgments—have reached the merits of third-party constitutional challenges to tax benefits without mentioning the TIA. See, e.g., *Byrne v. Public Funds for Public Schools of New Jersey*, 442 U. S. 907; *Griffin v. School Bd. of Prince Edward Cty.*, 377 U. S. 218. Consistent with the decades-long understanding prevailing on this issue, respondents’ suit may proceed without any TIA impediment. Pp. 17–21.

307 F. 3d 1011, affirmed.

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