

Recent Developments in Federal Income Taxation

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Hyatt Hotels Corp. v. Commissioner

T.C. Memo. 2023-122 (10/2/23)

Outline: item A.1, page 2

- Hyatt hotels were owned approximately 25% by Hyatt and 75% by third parties
- When a hotel guest earned rewards points by staying at a Hyatt-branded hotel, Hyatt required the hotel owner to pay a specified amount into an operating fund held by a Hyatt subsidiary.
- When a hotel guest used points to pay for a room at a Hyatt-branded hotel, Hyatt would make a compensating payment from the fund to the hotel owner.
- Hyatt also used the assets of the fund to pay administrative and advertising expenses that it determined were related to the rewards program.
- Held:
 1. Hyatt was required to include the fund's revenue in gross income. The trust fund doctrine did not apply because Hyatt benefitted from the fund.
 2. Hyatt did not experience a change of accounting method with a positive § 481 adjustment because Hyatt's exclusion of the revenue did not involve timing.
 3. The trading stamp method did not apply and therefore Hyatt could not reduce gross revenue from the fund by the estimated cost of future compensation payments to hotel owners.

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Balint v. Commissioner

T.C. Memo. 2023-118 (9/25/23)

Outline: item D.1, page 4

- While the taxpayer was incarcerated, he signed a broadly worded power of attorney.
 - It specifically authorized her to make gifts of his property and to engage in acts that otherwise would constitute prohibited self-dealing.
- Pursuant to the POA, his wife withdrew more than \$150,000 from the taxpayer's IRAs and pension and annuity accounts.
 - She used the funds to move from Florida to Kentucky, renovate a house there, and to care for her ailing mother.
 - She filed for divorce. He later filed his own divorce action.
- Issues:
 1. Was the IRS bound by a state court order that his wife was liable for tax?
 2. Did the taxpayer have to include in income the amounts his wife withdrew?
- Held:
 1. No. The government was not a party to the divorce action.
 2. No. The taxpayer neither authorized nor benefitted from the withdrawals and therefore was not the "payee or distributee" under § 408(d)(1).

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**Hallmark Research Collective v. Commissioner,
159 T.C. No. 6 (11/29/22)
Outline: item E.1, page 6**

- A unanimous, reviewed decision of the U.S. Tax Court.
- Issue: is the 90-day period specified in § 6213(a) for filing a Tax Court petition in response to a notice of deficiency jurisdictional, and is it subject to equitable tolling?
- Held: Yes, the 90-day period is jurisdictional. The period is not subject to equitable tolling.
 - U.S. Supreme Court's decision in *Boechler, P.C. v. Commissioner*, ___ U.S. ___ (4/21/22), does not dictate a contrary result.

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**Culp v. Commissioner,
75 F.4th 196 (3d Cir. 7/19/23)
Outline: item E.1.a, page 7**

- Issue: is the 90-day period specified in § 6213(a) for filing a Tax Court petition in response to a notice of deficiency jurisdictional, and is it subject to equitable tolling?
- Held: No, the 90-day period is not jurisdictional. The period is subject to equitable tolling.
 - Section 6213(a): "Within 90 days ... after the notice of deficiency authorized in section 6212 is mailed ..., the taxpayer may file a petition with the Tax Court for a redetermination of the deficiency. ... The Tax Court shall have no jurisdiction to enjoin any action or proceeding or order any refund under this subsection unless a timely petition for a redetermination of the deficiency has been filed and then only in respect of the deficiency that is the subject of such petition."

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**Sanders v. Commissioner,
161 T.C. No. 8 (11/2/23)**

Outline: item E.1.b, page 7

- In response to a notice of deficiency, taxpayer filed her Tax Court petition late.
- Issue: is the 90-day period specified in § 6213(a) for filing a Tax Court petition in response to a notice of deficiency jurisdictional?
- Held: Yes, the 90-day period is jurisdictional. The period is not subject to equitable exceptions.
 - Reviewed opinion (10-1-2).
- The Tax Court follows the precedent of the U.S. Court of Appeals to which the case is appealable. *Golsen v. Commissioner*, 54 T.C. 742 (1970).
- The taxpayer resided in the Fourth Circuit, and therefore any appeal of the Tax Court's decision would be decided by the Fourth Circuit.
 - The Fourth Circuit has not issued a precedential opinion on the issue of whether the 90-day period of § 6213(a) is jurisdictional.
- Tax Court will adhere to its prior decision in *Hallmark* and will not follow the Third Circuit's decision in *Culp* in cases appealable to other Circuits.
- Government's motion to dismiss for lack of jurisdiction granted.
- Dissenting opinion of Judge Foley joined by Judge Weiler.

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**Sall v. Commissioner
161 T.C. No. 13 (11/30/23)**

Outline: item D.2, page 8

- The taxpayer received a notice of deficiency stating the last day to file a petition with the Tax Court was Friday, November 25, 2022, the day after Thanksgiving.
- The Tax Court was administratively closed on that day.
- The taxpayer mailed his petition to the court on Monday, November 28, 2022. The court received the petition on December 1, 2022.
- Issue: Did the taxpayer timely file his Tax Court petition?
- Held: Yes. Section 7451(b)(1) (added in 2021) provides:
 - "Notwithstanding any other provision of this title, in any case (including by reason of a lapse in appropriations) in which a filing location is inaccessible or otherwise unavailable to the general public on the date a petition is due, the relevant time period for filing such petition shall be tolled for the number of days within the period of inaccessibility plus an additional 14 days."
 - The office of the clerk of the Tax Court, which is a filing location, was inaccessible on November 25, 2022 (the date the petition was due).
 - Therefore, the taxpayer had until December 10, 2022, to file the petition. Because December 10, 2022, was a Saturday, under § 7503, the taxpayer had until Monday, December 12, 2022, to file the petition.

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**Thomas v. Commissioner,
160 T.C. No. 4 (2/13/23)
Outline: item G.1, page 9**

- Held: the taxpayers' blog posts were admissible as evidence in her trial seeking innocent spouse relief.
- Section 6015(e)(7), enacted in 2019:
 - Any review of a determination made under this section shall be reviewed de novo by the Tax Court and shall be based upon—
 - A. the administrative record established at the time of the determination, and
 - B. any additional newly discovered or previously unavailable evidence.
 - Even if the IRS, with reasonable diligence, could have discovered the blog posts when the taxpayer submitted her administrative request for innocent spouse relief, the blog posts were “newly discovered” evidence.
 - Congress did not include a reasonable diligence standard in § 6015(e)(7).
 - The phrase “newly discovered” means “recently obtained sight or knowledge of for the first time.”

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**Thomas v. Commissioner,
162 T.C. No. 2 (1/30/24)
Outline: item G.1.a, page 10**

- Issues:
 1. Whether certain letters from third parties that the taxpayer submitted to the IRS as part of her administrative request for innocent spouse relief were excluded from evidence as inadmissible hearsay?
 2. Whether the taxpayer was entitled to innocent spouse relief under § 6015(f) (equitable relief).
- Held:
 1. No, the letters are not inadmissible hearsay.
 - Rule against hearsay can be overruled by statute, which § 6015(e)(7) does
 - Section 6015(e)(7) directs the court to review the IRS's determination “based on the administrative record ...”
 2. No, the taxpayer is not entitled to innocent spouse relief.
 - Taxpayer satisfied threshold requirements of Rev. Proc. 2013-34 but was not entitled to streamlined determination for lack of economic hardship
 - Equitable factors weighed against taxpayer for lack of economic hardship and because taxpayer had significantly benefited from unpaid taxes.

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