

Recent Developments in Federal Income Taxation

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1

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2

I. Accounting

3

Conmac Investments, Inc. v. Commissioner, 139 F.4th 723 (8th Cir. 6/6/25)

Outline: item E.1, page 2

- The taxpayer leased land to tenant farmers.
- In tax years 2004, 2006 through 2008, and 2010 through 2013, the taxpayer acquired farmland that came with “base acre” rights.
 - These are rights to subsidies from the USDA for growing certain crops.
- Before 2009, the taxpayer did not allocate any of the purchase price of farmland to base acre rights associated with the farmland.
- Starting in 2009, the taxpayer began allocating part of the purchase price to base acre rights and taking 15-year amortization deductions.
- Issues:
 1. Was the change to amortizing base acre rights a change in method of accounting that required IRS consent under § 446(e)?
 2. If so, could the IRS impose a positive § 481 adjustment in 2013 for 2009-2012, which were closed years?
- Held:
 1. Yes. This was a timing change. There was no change in underlying facts.
 2. Yes. Section 481 allows adjustments for closed years.

4

4

IV. Compensation Issues

5

Hubbard v. Commissioner, 132 F.4th 437 (6th Cir. 3/19/25)

Outline: item D.1, page 4

- The taxpayer, a pharmacist in Kentucky, was criminally convicted of running a pill mill and sentenced to 30 years in prison.
- As part of the sentence, the court ordered him to forfeit the assets that had been funded through his criminal activity, including his SEP IRA.
- The government seized his IRA in 2017.
 - The IRA custodian issued Form 1099-R reporting a taxable distribution.
 - The taxpayer, who was incarcerated, did not file a return in 2017.
- The IRS issued a notice of deficiency asserting income tax, late-filing and late-payment penalties, an underpayment penalty, and a 10% early withdrawal penalty.
- Issue: did the taxpayer have to include the IRA distribution in gross income?
- Held: No. Tax Court reversed.
 - The forfeiture order transferred ownership of the IRA to the government.
 - Relation-back doctrine: gov't became the owner when the IRA was funded
 - The government withdrew its own money, and taxpayer was not the "payee₆ or distribute" within the meaning of § 408(d)(1).

6

VI. Corporations

7

CF Headquarters Corp. v. Commissioner

164 T.C. No. 5 (3/4/25)

Outline: item H.1, page 6

- The State of York's economic development plan made cash grants totaling approximately \$3.1 million to a corporation in 2007.
 - The grants were incentives for the corporation to remain in Manhattan after the September 11, 2001, terrorist attack.
- Issue: are the cash grants nontaxable, nonshareholder contributions to capital (§118), gifts (§102), or qualified disaster relief payments (§139)?
- Held: No. The grants must be included in the corporation's income.
 - The grants are not nontaxable contributions to capital:
 - To be a contribution to capital, a payment must become a permanent part of the recipient's working capital structure.
 - This was not satisfied. The grants were not restricted to use as capital.
 - The corporation could have used the grants to pay operating expenses or dividends.
 - The grants are not gifts. NYS had no detached, disinterested generosity.
 - They are not QDRP because only individuals can exclude such payments.

8

CF Headquarters Corp. v. Commissioner
164 T.C. No. 5 (3/4/25)
Outline: item H.1, page 6

- Section 13312 of the 2017 TCJA amended Code § 118.
- As amended, § 118(b)(2) provides:
 - Non-shareholder contributions to the capital of a corporation made after 12/22/17 by any *governmental entity or civic group* are *not* excluded from the corporation's gross income.
- Thus, the result in this case would be the same after 2017, but for a different reason

9

9

**IX. Exempt Organizations and
Charitable Giving**

10

Rev. Proc. 2025-6
2025-6 I.R.B. 713 (1/16/25)
Outline: item A.1, page 8

- Addresses the ability of certain tax-exempt entities to change the taxable year they claimed when they filed Form 990-T.
 - These exempt entities include § 501(c)(3) organizations, state and local governments, and Native American Tribes.
- Code § 6417 allows certain tax-exempt entities to receive direct payments from the IRS for specific, refundable renewable energy tax credits.
 - These credits were part of the 2022 Inflation Reduction Act.
- Usually, tax-exempt organizations file Form 990-T to report unrelated business income.
- The IRS made Form 990-T the vehicle for obtaining payments of these tax credits, even for organizations that never filed Form 990-T (or Form 990).
- Certain tax-exempt entities that filed Form 990-T for the first time claimed a tax year that differed from their annual accounting period.
- The revenue procedure grants permission to these tax-exempt organizations to change their taxable year to conform to their annual accounting period.

11

X. Tax Procedure

12

Belagio Fine Jewelry, Inc. v. Commissioner,
162 T.C. No. 11 (6/25/24)
Outline: item E.1, page 9

- Following an audit, the IRS determined that the taxpayer had an employee and mailed a notice of employment tax determination.
- Under § 7436(b)(2), the taxpayer had 90 days to challenge the determination by filing a petition in the U.S. Tax Court.
- The taxpayer filed its petition one day late
- Issue: is the 90-day period of § 7436(b)(2) jurisdictional?
- Held: No. The text, context, and history of the statute indicate that the 90-day period is a nonjurisdictional claim-processing rule.
 - The court denied IRS's motion to dismiss for lack of jurisdiction.
 - The court reserved judgment on whether the 90-day period is subject to equitable tolling.

13

13

Belagio Fine Jewelry, Inc. v. Commissioner,
164 T.C. No. 7 (4/15/25)
Outline: item E.1.a, page 11

- Following an audit, the IRS determined that the taxpayer had an employee and mailed a notice of employment tax determination.
- Under § 7436(b)(2), the taxpayer had 90 days to challenge the determination by filing a petition in the U.S. Tax Court.
- The taxpayer filed its petition one day late
- In its previous opinion, the court concluded that this 90-day period is not jurisdictional.
- Issues:
 1. Is the 90-day period of § 7436(b)(2) subject to equitable tolling?
 2. If so, was equitable tolling warranted in this case?
- Held:
 1. Yes. Under *Irwin v. Dep't Veterans Affairs* (U.S. 1990), it is presumed subject to equitable tolling, and nothing rebuts the presumption.
 2. No. The taxpayer did not diligently pursue its rights. Even if it did, no extraordinary circumstances prevented taxpayer from filing on time. ¹⁴

14

**Brown v. Commissioner,
116 F.4th 861 (9th Cir. 8/29/24)
*Outline: item H.1, page 12***

- The IRS issued a notice of federal tax lien.
- During a CDP hearing, the taxpayer requested an offer in compromise and submitted it.
- The OIC Unit returned it as nonprocessable.
- The Appeals Officer conducting the CDP hearing then upheld the lien more than 24 months after the taxpayer submitted the OIC.
- Issue: was the IRS deemed to have accepted the offer because the Appeals Officer upheld the levy through a notice of determination more than 24 months after the offer was submitted (section 7122(f))?
- Held: No. The IRS rejected the offer when it returned it.

15

15

**Vensure, HR, Inc. v. Commissioner,
119 F.4th 7 (Fed. Cir. 10/4/24)
*Outline: item H.1, page 14***

- The taxpayer:
 - Overpaid employment taxes for the second quarter of 2014.
 - Asserted that the overpayment caused it to be unable to pay taxes on a timely basis for later periods.
- The taxpayer's representative filed Form 843, Claim for Refund and Request for Abatement
 - The Form 843 was not accompanied by a power of attorney on Form 2848
 - The representative did file Form 2848 with the IRS CAF Unit
 - Relevant regulations say that the POA must accompany the refund claim, and the Form 843 instructions say the POA must be attached.
- Issue: is the requirement that the POA accompany the claim statutory or regulatory, and if regulatory, had the IRS waived it?
- Held: The requirement is regulatory. Case remanded to U.S. Court of Federal Claims to determine if IRS had waived the requirement by considering the merits of the refund claim.

16

16