

IRS TAX COURT CASE REVIEW NATP – NOV 7 2025

1

**A BIG THANK YOU TO THE FOLLOWING SOURCES
FOR THE US TAX COURT CASES:**

**VA TECH INCOME TAX SCHOOL
AMERICAN ACADEMY OF ATTORNEY-CPAS**

2

SUBSTANTIAL AUTHORITY

"Substantial authority" to support position taken on return;

OR

Adequate disclosure of relevant facts on return, with **"reasonable basis"** for position

Possibility of not being audited not relevant

3

REASONABLE BASIS

Reasonable basis is less stringent

- Some authority for the position
- Even if contrary authority is great
- Not just arguable
- Reasonably based on authority

4

DEFINITION OF SUBSTANTIAL AUTHORITY

Rulings & cases are **insufficient authority** if:

One Taxpayer's facts & circumstances (F&C)

are distinguishable

From **a different taxpayer's facts** & circumstances

5

SUBSTANTIAL AUTHORITY

I.R.C. 6662 Substantial Understatement Penalty

DOES NOT APPLY IF YOU HAVE:

SUBSTANTIAL AUTHORITY

or

YOU DISCLOSE YOUR POSITION & HAVE REASONABLE BASIS

6

AUTHORITIES

Taxpayers can rely on:

- Statutes,
- Regulations,
- Revenue rulings,
- Procedures & other sources

Taxpayers should **NOT rely on**

- Private letter rulings from other taxpayers,
- General counsel memoranda,
- Other IRS information releases & reports,
- Tax opinions

7

AUTHORITIES/JURISDICTION SUPREME COURT

US Supreme Court rulings provide ultimate national authority for interpreting issues of tax law

8

**AUTHORITIES/JURISDICTION
CIRCUIT COURT**

Circuit court of appeals decisions bind only a geographic area

In which circuit are we?

9

9

**AUTHORITIES/JURISDICTION
CIRCUIT COURT**

Circuit court of appeals decisions bind only a geographic area

In which circuit are we?

Answer: 4th Circuit

10

10

AUTHORITIES/JURISDICTION
TAX COURT

Tax Court's jurisdiction is over entire US

11

11

AUTHORITIES/JURISDICTION
TAX COURT

Tax Court's jurisdiction is over entire US

Tax Court cases are **appealed to US Circuit Court of Appeals** for circuit in which taxpayer lives

12

12

AUTHORITIES/JURISDICTION TAX COURT

Tax Court's jurisdiction is over entire US

Tax Court cases are appealed to US Circuit Court of Appeals for circuit in which TP lives

If **Circuit Court overrules**, case is overruled only with **respect to Taxpayer's who live in that circuit**

13

13

AUTHORITIES/JURISDICTION TAX COURT

Tax Court's jurisdiction is over entire US

Tax Court cases are appealed to US Circuit Court of Appeals for circuit in which TP lives

If Circuit Court overrules, case is overruled only w/ respect to Taxpayer's who live in that circuit

Taxpayer's living outside circuit not bound by decision

14

14

AUTHORITIES

NOTE:

There **may be more than one position** with **respect to the same item** or set of facts

May be **2 different Taxpayers with 2 different positions on same issue**

Each with substantial authority

15

15

RULINGS AND CASES

DISCLAIMER:

EDITED AND CONDENSED

READ THE WHOLE CASE BEFORE
RELYING ON IT

16

IRS ISSUES

P. 467

Innocent Spouse Relief - *Thomas v. Commissioner*

Facts

Sydney Ann Chaney Thomas was a business owner, part-time college instructor, and former bank employee. She had a degree in political science and government and economics from Oregon State University. Sydney married her neighbor, Tracy A. Thomas. Tracy held a finance degree and worked for Halliburton. He eventually transitioned into a career in the construction industry. Sydney and Tracy purchased a second home in Lake Tahoe. Tracy gave Sydney a five-carat diamond ring that she still owned at the time of trial.

Ruling

The taxpayer did not establish that she would suffer economic hardship if she was not granted innocent spouse relief. She also significantly benefited from the underpayments of income tax and was not entitled to relief from that tax.

Takeaway: Innocent Spouse was **not successful because the taxpayers had a "lavish lifestyle"** and benefited from the income related to the request.

17

CASE NAME: SCWARTZ V COMMISSIONER

CASE FOCUS: DEDUCTIONS

FACTS:

- TPs were avid hunters and Gary was a full time oral surgeon and his W2 wages were over \$2 million per year.
- They invested in 2 ranches – one to farm on and one to hunt on.
- Purchased and sold over 20,000 acres of land with the plan to buy low, improve it and then sell it quickly.
- Their activities included eco-tourism, farming and ranching.
- Had 6 full time employees and also paid sub contractors to include guides and seasonal farm workers.

18

18

CASE NAME: SCWARTZ V COMMISSIONER
CASE FOCUS: DEDUCTIONS

FACTS (cont):

- Their son was one of the employees and he became the ranch manager, hunt master and fish master.
- Gary (the father and a doctor) made all the major decisions.
- The Farming business lost money and created Sch F losses that TPs used to offset income from real estate activities.
- TPs took the position that the loss came from an activity engaged for profit thus they grouped their farming activities losses with their real estate activities gains and the IRS disallowed the losses.

19

CASE NAME: SCWARTZ V COMMISSIONER
CASE FOCUS: DEDUCTIONS

ANALYSIS:

- **IRC 183(a)** provides that TPs are not allowed a loss if the activity is not engaged for profit.
- **IRC 183(b)** allows deductions if activity is engaged for profit but only to the extent of gross income derived from the activity.
- An activity is engaged for profit if the TP entertained an actual an honest profit objective in engaging in the activity.
- A TPs multiple activities may be treated as one **IF** they are sufficiently interconnected.

20

CASE NAME: SCWARTZ V COMMISSIONER

CASE FOCUS: DEDUCTIONS

ANALYSIS:

- **Most significant facts and circumstances to consider** when reviewing the activity at issue:
- 1. Degree of **organizational and economic interrelationship**.
- 2. The **business purpose** served by operating the **businesses separately or together**.
- 3. **Similarity** of the businesses

21

21

CASE NAME: SCWARTZ V COMMISSIONER

CASE FOCUS: DEDUCTIONS

ANALYSIS:

- **Court also considers the following case law factors:**
- 1. Were businesses conducted at same place?
- 2. Were the businesses part of TP's effort to find sources of revenue from their land?
- 3. Were the businesses formed separately?
- 4. Did one business benefit from the other?
- 5. Did TP use one business to advertise the other?
- 6. Shared management between the businesses?

22

22

CASE NAME: SCWARTZ V COMMISSIONER
CASE FOCUS: DEDUCTIONS

ANALYSIS:

- **Court also considers the following case law factors:**
- 7. Did one caretaker oversee the assets of both businesses?
- 8. Was same accountant used for both?
- 9. Did the businesses share books and records?

23

23

CASE NAME: SCWARTZ V COMMISSIONER
CASE FOCUS: DEDUCTIONS

COURT DECISION:

- Court found that the farming and real estate activities were separate.
- Court also found that most of the 9 factors indicated a lack of profit objective as well as there was a history of losses and lack of profits.
- Year after year the farming activity continued to lose money and there was no indication it would ever be profitable.
- Court found that Gary was following his long time passion for deer and ranch development and pursued this independently of any desire to earn a profit.

• **IRS WIN!**

24

24

TAX PRACTICE AND PROCEDURE – SNAP SHOT

Tax Court Filing - *Belagio Fine Jewelry v. Commissioner*

Facts

Belagio Fine Jewelry, Inc. (Belagio) did not file quarterly employment tax returns during the years at issue. Following an audit, the IRS determined that Belagio had employees and issued a notice of employment tax determination under I.R.C. § 7436. The notice stated that the last day to file a petition with the Tax Court was November 22, 2021. Belagio mailed a petition for redetermination of employment status to the Court via FedEx Express Saver on November 18, 2021. The petition arrived at the court on November 23, 2021.

Ruling

Considering the relevant text, statutory context, and history of section 7436, the 90-day deadline is not a jurisdictional requirement. Therefore, the court was not deprived of jurisdiction because of the taxpayer's late filing, and could consider whether the 90-day deadline is subject to equitable tolling.

Takeaway: "FedEx Express Saver" meant "timely mailed = timely filed" did NOT apply. Per IRS: **NO PRIVATE GROUND** services qualify. Only overnight, 2 day and international qualify.

25

CASE NAME: FRY V COMMISSIONER

CASE FOCUS: DEBT OR EQUITY

FACTS:

- Fry owned 2 S corporations: Crown and CR Maintenance and the two businesses **operated in a HIGHLY integrated manner.**
- They were both based in the **same facility and used the same maintenance, payroll, corporate officer and accountant.**
- Crown collected trash, waste and recyclables.
- CR processed the trash and waste into commodities for sale to 3rd parties.
- Crown did not pay CR for taking possession of the waste nor did Crown share any collection fees with CR.

26

CASE NAME: FRY V COMMISSIONER**CASE FOCUS: DEBT OR EQUITY****FACTS (cont):**

- CR was not profitable and required substantial financial support from Crown as CR was losing between \$5 million to \$7 million per year.
- **Funds were directly transferred between the businesses** and there were no promissory notes nor written due dates for the return of the money. No interest was paid.
- However, **CR documented the transfers as liabilities to Crown.**

27

27

CASE NAME: FRY V COMMISSIONER**CASE FOCUS: DEBT OR EQUITY****FACTS (cont):**

- CR reported a \$5.6 million loss.
- The owner stated that the transfers were not debt but **they were equity contributions and distributions that increased his basis.**
- Based upon that position, the owner took \$4.7 million of the loss as a flow through loss deduction on the individual return.
- IRS disallowed the loss due to a lack of basis.

28

28

CASE NAME: FRY V COMMISSIONER

CASE FOCUS: DEBT OR EQUITY

ANALYSIS:

- **IRC 1366(d)(1)** limits the amount of losses and deductions the shareholder may deduct as to the shareholder's basis.
- The determination as to whether something is debt or equity related to the economic substance of a transaction.
- In *Hardman v US* (1987), the **court set 11 factors to determine if a transfer is debt or contribution of capital.**
- **NOTE:** Court stated that no one factor is controlling

29

CASE NAME: FRY V COMMISSIONER

CASE FOCUS: DEBT OR EQUITY

ANALYSIS:

- 1. Names given to the certificates evidencing debt (none)
- 2. Fixed Maturity Date (none)
- 3. Source of the Payments
- 4. Right to enforce payments of principal and interest (none)
- 5. Did the funds increase participation in management
- 6. Did the lender have a status equal or inferior to that of regular creditors (not helpful)
- 7. Objective indicators of parties' intent (none)

30

CASE NAME: FRY V COMMISSIONER

CASE FOCUS: DEBT OR EQUITY

ANALYSIS:

- 8. Capital structure of the “borrower” is thin or adequate
- 9. Are the funds proportional to the shareholders capital?
- 10. Do the interest payments come from “dividend” money?
- 11. Ability of the borrower to obtain loans from outside lending sources.

31

31

CASE NAME: FRY V COMMISSIONER

CASE FOCUS: DEBT OR EQUITY

COURT DECISION:

- In weighing the 11 factors, **Court allowed that CR intended to make repayments when it was profitable** and this factor weighed in favor of equity.
- In addition, Crown never made a written request to demand payment and there was no interest paid nor any collateral thus these factors also weighed in favor of equity.
- Thus the **court concluded that the payments were equity and not debt!**

However, the court was not done.....

32

32

CASE NAME: FRY V COMMISSIONER**CASE FOCUS: DEBT OR EQUITY****COURT DECISION:**

- The **Court then considered whether the transactions could be recharacterized as constructive distributions** from Crown to its Shareholder followed by contributions of capital to CR.
- Under 9th Circuit Case law, **a constructive dividend occurs when a 2 part test** is met:
 1. The expenditures do not give rise to a deduction on behalf of the distributing company
 2. The expenditures create economic gain, benefit or income to the shareholder
- The **court found that the transfers directly benefited Thomas** because they allowed another company he owned (CR) to continue operations.
- Court found the **transfers were constructive distributions to the shareholder followed by constructive contributions from the shareholder – thus increasing his basis.**

33

33

CASE NAME: CONRAD V COMMISSIONER**CASE FOCUS: DEDUCTIONS****FACTS:**

- Thomas and his wife owned 51.25% of FMC, an S corp. FMC was the General Partner (GP) and General Manager of a hedge fund. The hedge fund managed investments through its 15 managers who were located in the US and 6 other countries.
- FMC bought a yacht so Thomas (on behalf of FMC) could travel up and down the East Coast of the US to meet current and potential clients.
- Yacht was 65 feet long and had 3 bedrooms, 3 bathrooms, an office and a living area.

34

34

CASE NAME: CONRAD V COMMISSIONER
CASE FOCUS: DEDUCTIONS

FACTS:

- The Conrads took a 71 day trip on FMC's yacht between Florida and Maine and they stopped at different cities along the way to meet with clients.
- During the trip they hosted guests on the yacht and FMC did not hire a professional crew to help. Over the trip, 20 guests stayed overnight and their stays ranged from 3 to 10 nights.
- The Conrad entertained their guests and Thomas used the office every day of the trip for work as President of FMC.
- After the trip, FMC listed the yacht for sale and the yacht was never used again by FMC or the Conrads.

35

35

CASE NAME: CONRAD V COMMISSIONER
CASE FOCUS: DEDUCTIONS

FACTS:

- Later, FMC bought an Eclipse airplane for \$1 million.
- Thomas intended to use the plane for FMC business and FMC incurred expenses for Thomas to flying lessons but due to health issues he had to stop the flying lessons; however, FMC continued to pay for expenses like storage and upkeep.
- FMC also rented the plane to 3rd parties for short term use.
- FMC deducted depreciation, storage, maintenance and upkeep expenses for the yacht and the airplane and the IRS disallowed the deductions.

36

36

CASE NAME: CONRAD V COMMISSIONER
CASE FOCUS: DEDUCTIONS

ANALYSIS:

- **IRC 162(a)** generally allows for a deduction for ordinary and necessary expenses paid or incurred in carrying on a trade or business.
- **As part of IRC 162(a)** a corporation can deduct these expenses in relation to an asset that is primarily associated with profit motivated purposes **and if the personal use** of the property by shareholders, officers, and other individuals related to the company are distinctly secondary and incidental.

37

CASE NAME: CONRAD V COMMISSIONER
CASE FOCUS: DEDUCTIONS

COURT ANALYSIS:

- Court found that during the years at issue, the **yacht remained an FMC business asset** and it was not used by the Conrad's for their personal use and thus FMC could deduct the expenses for the yacht.
- **TAXPAYER WIN on the yacht!**
- **Next the court looked at the depreciation of the airplane.**
- **IRC 167(a)** allows a deduction for depreciation deduction if the property is used in a trade or business or held for production of income.

38

CASE NAME: CONRAD V COMMISSIONER
CASE FOCUS: DEDUCTIONS

COURT ANALYSIS:

- **Next the court looked at the depreciation of the airplane.**
- **IRC 167(a)** allows a deduction for depreciation deduction **if the property is used** in a trade or business or held for production of income.
- The **IRS argued that the plane was NEVER placed in service** (which is **a condition for a deduction**) since Thomas never completed his flight certification.
- **Definition of placed in service:** "When it is placed in a condition of readiness and **availability for a specifically assigned function**, whether in a trade or business or in the production of income."

39

CASE NAME: CONRAD V COMMISSIONER
CASE FOCUS: DEDUCTIONS

COURT ANALYSIS:

- The **specific function of the airplane was for Thomas to personally fly cross country for client meetings** and trips and Thomas testified to this.
- **Testimony also showed that hiring pilots (rather than fly himself) would have been cost prohibitive** and logistically challenging because of the lack of available pilots who were certified for the plane in question.
- The Conrads then argued the plane could still be used for leasing to 3rd parties.
- The Court found that **ONLY the TPs originally intended function can be the specifically assigned function** in the definition thus depreciation could not be deducted for the plane. However, the other expenses (including the flying lessons) were able to be deducted since they were incurred solely for business purposes.
- **SPLIT DECISION on the airplane!**

40

CASE NAME: CONRAD V COMMISSIONER
CASE FOCUS: DEDUCTIONS

COURT ANALYSIS:

•Questions:

- 1. Any suggestions on what the TPs could have done with the airplane that would have qualified it for depreciation?

- 2. Based on this court case, would your traveling contractor clients have sufficient case law to buy an RV and travel with it to jobs and fully deduct the expenses of its use on job sites?

41

41

CASE NAME: JADHAV V COMMISSIONER
CASE FOCUS: DEDUCTIONS

FACTS:

- Now that you have a had a few cases to sufficiently warm up – it is time for a Tax Court case Battle Royale!!!!

42

42

CASE NAME: JADHAV V COMMISSIONER
CASE FOCUS: DEDUCTIONS

FACTS:

- This is the case you ALL have been waiting for.....

43

43

CASE NAME: JADHAV V COMMISSIONER
CASE FOCUS: DEDUCTIONS

FACTS:

- In one corner, we have TIK TOK and it's always excellent tax advice given to our clients that makes our lives easier and saves us immense amount of time.....

44

44

CASE NAME: JADHAV V COMMISSIONER
CASE FOCUS: DEDUCTIONS

FACTS:

- In the other corner, we have the US Tax Court – holding court and giving's its verdict on one of the of most popular Tik Tok tax advice "suggestions"

45

45

CASE NAME: JADHAV V COMMISSIONER
CASE FOCUS: DEDUCTIONS

FACTS:

- You of course know these Tik Toks even though you never have to see it yourself because some random client is sure to tell you how dumb you were for not suggesting it to ALL of your clients.....

46

46

CASE NAME: JADHAV V COMMISSIONER
CASE FOCUS: DEDUCTIONS

FACTS:

- So let the tax battle begin on.....

47

47

CASE NAME: JADHAV V COMMISSIONER
CASE FOCUS: DEDUCTIONS

FACTS:

- So let the tax battle begin on.....
- The AUGUSTA RULE!!!

48

48

CASE NAME: JADHAV V COMMISSIONER
CASE FOCUS: DEDUCTIONS

FACTS:

- **Let me take a moment to explain the Augusta Rule** on Tik Tok just in case you have been fortunate enough to have a client never mention this to you (as quoted by Bryan Camp on the Tax Prof Blog):
- ***"In the past few years, there have been a lot of excited Tik Tok posts about how closely held businesses can use the "Augusta Rule" to get a double tax benefit: a deduction for the business under IRC 162 AND tax free income to the business owner under 280A(g)***
- NOTE: As we will learn soon, 280A(g) is the basis for the Augusta Rule

49

CASE NAME: JADHAV V COMMISSIONER
CASE FOCUS: DEDUCTIONS (AUGUSTA RULE)

FACTS:

- TP had a PHD in Chemistry, worked for Mobile Oil in marketing and sales as an employee that paid him \$159,000 per year.
- TP also had a Sole Prop called KJ Marketing, filed a Sch C and also kept a 401K retirement plan. This Sole Prop also purchased several residential properties used by TP family.
- KJ generated substantial income and **hired a firm to reduce its tax exposure**. The firm advised opening an S corp and to rent the residential properties to the S Corp for "business purposes at a reasonable per day rate".

50

CASE NAME: JADHAV V COMMISSIONER
CASE FOCUS: DEDUCTIONS (AUGUSTA RULE)

FACTS:

- The plan had the S corp renting each of the properties for a max of 14 days and then **BOTH** deducting that expense on its income tax return **AS WELL AS** excluding the rental income pursuant to **IRC 280A(g). (Also known as the Augusta Rule)**
- Also, TP's 2 sons worked part time for the business and the business deducted tuition, salaries, fitness and country club expenses. It deducted contributions to the 401K for the 2 sons.
- The IRS disallowed most of the deductions.

51

51

CASE NAME: JADHAV V COMMISSIONER
CASE FOCUS: DEDUCTIONS (AUGUSTA RULE)

FACTS:

- **So there are 2 different issues to address:**
 - Was the rental idea (Augusta Rule) acceptable?
 - Was employing the 2 sons part time and deducting their expenses acceptable?

52

52

CASE NAME: JADHAV V COMMISSIONER
CASE FOCUS: DEDUCTIONS (AUGUSTA RULE)

ANALYSIS - Rental:

- **IRC 162(a)** generally allows for a deduction for ordinary and necessary expenses paid or incurred in carrying on a trade or business.
- The TP bears the burden of proving that they are entitled to the deduction to include maintain records that are sufficient for the IRS to determine the correct tax liability (IRC 6001).
- The TP must demonstrate that the deduction is allowable and then substantiate that the expense was paid.

53

53

CASE NAME: JADHAV V COMMISSIONER
CASE FOCUS: DEDUCTIONS (AUGUSTA RULE)

ANALYSIS - Rental:

- **One note on the Augusta Rule (IRC 280A(g)) –**
- You can rent for 14 days and not report the income **BUT** you **CANNOT** also then deduct any expenses related to that rental.
- **Silly Tik Tokers**.....why bother actually looking at the Internal Revenue Code.....

54

54

CASE NAME: JADHAV V COMMISSIONER
CASE FOCUS: DEDUCTIONS (AUGUSTA RULE)

COURT DECISION – Rental (Augusta Rule) and MUCH anticipated Ruling on this piece of Tik Tok Tax Advice:

55

55

CASE NAME: JADHAV V COMMISSIONER
CASE FOCUS: DEDUCTIONS (AUGUSTA RULE)

COURT DECISION – Rental (Augusta Rule) and Much anticipated Ruling on this piece of Tik Tok Tax Advice:

- Court found that it was more likely than not that the rent payments were unreasonable and something other than rent.

• **IRS WIN!**

QUESTION: What could the TP done differently to achieve the 14 day rental exclusion?

56

56

CASE NAME: JADHAV V COMMISSIONER
CASE FOCUS: DEDUCTIONS (AUGUSTA RULE)

COURT DECISION – Rental (Augusta Rule) and Much anticipated Ruling on this piece of Tik Tok Tax Advice:

- Court found that it was more likely than not that the rent payments were unreasonable and something other than rent.
- **IRS WIN!**

QUESTION: What could the TP done differently to achieve the 14 day rental exclusion?

Potential Answer: Move out, and rent to un-related 3rd parties for the 2 weeks (which is I would expect happens at the Masters in Augusta, GA).

57

CASE NAME: JADHAV V COMMISSIONER
CASE FOCUS: DEDUCTIONS

ANALYSIS – Deducting expenses related to the Sons:

- **IRC 404(a)** allows an employer to deduct certain contributions to a deferred compensation plan that are paid or accrued on account of an employee.
- When a family relationship is involved, **close scrutiny is required to determine whether a bona fide employer-employee relationship existed** and whether the payments were made on account of an employee or an account of family?

58

CASE NAME: JADHAV V COMMISSIONER
CASE FOCUS: DEDUCTIONS

COURT DECISION – Deducting expenses related to the Sons:

- Court found the testimony of the TP credible that he viewed KJ Marketing as a family business that he wished to pass on to his 2 sons even though they were in college. The TP also **credibly recounted** assigning the sons research tasks and overseeing work while they were in school.
- The sons received W2s from the S Corp and one son was a full time employee when the trial occurred.
- The court found that there was an employment relationship as the TP showed control over his sons work, his investment in the business, a lengthy employment relationship and an intention to create an employee-employer relationship.
- **Taxpayer win on the son's retirement plan deductions.**

59

CASE NAME: JADHAV V COMMISSIONER
CASE FOCUS: DEDUCTIONS

So for all of time, our **ancestors** told stories as a way to share information on to the **future generations** so that those future generations could learn from the **mistakes of its elders**

Also, there were often morals in stories to be shared to those very same eager **future generations**

FYI: A "moral" is a lesson to be learned from a story or event.

Thus, our humble audience, what is the moral of this tax court story that our much respected elders wished to pass on to our future generation on the Augusta Rule?

60

CASE NAME: JADHAV V COMMISSIONER
CASE FOCUS: DEDUCTIONS

- If a client asks you something about taxes and they quote Tik Tok, **immediately quintuple your fee:**

61

61

CASE NAME: JADHAV V COMMISSIONER
CASE FOCUS: DEDUCTIONS

- If a client asks you something about taxes and they quote Tik Tok, immediately **quintuple your fee:**
- Either you will drive that aspiring Tik Tok client off
- OR
- You will get paid extra to deal with all the explanations you will have to give to your new favorite Tik Tok client

62

62

CASE NAME: JADHAV V COMMISSIONER
CASE FOCUS: DEDUCTIONS

- Actually, I think there is one more idea to suggest other than quintupling your fee.....

63

63

BUSINESS TAX ISSUES – SNAP SHOT

Deductions

Steward v. Commissioner

Facts

Paul Anthony Steward had a background in music and was a performing musician during the years in issue. He performed with his father in the band "Twice As Good," primarily playing blues music. The band played concerts at various venues throughout California and received royalties. Paul was the manager of the band, kept records, and hired other artists to perform with the band.

Ruling

The taxpayer could deduct transportation expenses but was not entitled to deductions for travel expenses.

Takeaway: It is not all or nothing as the IRS ruled – **Transportation in US was OK** (due to documentation, **Travel to Japan was not allowed** (could not document business reasons))

64

CASE NAME: SS ELECTRIC (SSE) V COMMISSIONER
CASE FOCUS: DEDUCTIONS OF INTEREST

FACTS:

- Shot Stop Electric (SSE) was an electrical contractor and it was a C Corp that used the cash method of accounting.
- Majority owner (Bob) gave the company a revolving line of credit and he would record that the loaned money to SSE.
- SSE did NOT make any regular interest payments back to Bob.
- Instead, at end of year, Bob would figure out how much interest he wanted SSE to owe, calculate what interest rate would generate that amount, apply that rate and then add the resulting amount to the principal of the loan.

65

CASE NAME: SS ELECTRIC (SSE) V COMMISSIONER
CASE FOCUS: DEDUCTIONS OF INTEREST

FACTS:

- SSE totaled these additions to principal and then deducted the interest amounts on its tax returns while at the same time **Bob and his wife reported the interest as income on their personal tax returns** (even though they did not receive it).
- Next, Bob bought an interest in a cabin that would be owned in a partnership with other 3 parties (not family) and paid \$90,000 from his personal account in exchange for 25% in the partnership.
- Bob then put the cabin ownership into SSE.
- Bob used his own money for the cabin but then added the amounts paid to the line of credit for SSE which increased the interest expense deductions and created an NOL. The cabin was used for personal use.
- **IRS said interest deductions were not really for interest, did not have a business purpose and were not substantiated.**

66

CASE NAME: SS ELECTRIC (SSE) V COMMISSIONER
CASE FOCUS: DEDUCTIONS OF INTEREST

ANALYSIS:

- **IRC 163(a)** provides that for a cash basis taxpayer, **deductible interest must be PAID** and not just owed. Merely delivering a promissory note for interest and not paying interest does not create a deduction.
- **Capitalizing Interest** (which is what SSE was doing), is the addition of unpaid interest to the principal of the loan. **Courts have consistently held that adding unpaid interest to a loan is not the same as paying it.** It just postpones payment of that interest and **thus the interest is not deductible.**
- **NOL:** SSE claimed an NOL in the tax years at issue. The IRS demonstrated that if the interest deductions were not taken, there would not have been any NOL.

67

67

CASE NAME: SS ELECTRIC (SSE) V COMMISSIONER
CASE FOCUS: DEDUCTIONS OF INTEREST

COURT DECISION:

- Court found that the taxpayer could not claim an interest deduction for interest that was capitalized.
- Also, the court agreed that because of the ruling above, there would be no NOL carryforward.

IRS WIN!

68

68

CASE NAME: ATTISHA V COMMISSIONER

CASE FOCUS: INCOME – ILLEGAL MARIJUANA BUSINESS

SIDE GAME FOR THIS CASE:

- This is a case about marijuana and as I was reading and typing up the case, the word marijuana was used SO MANY times, I got bored typing it and was curious how many different words there are for **hemp** (over 200 by the way).
- Thus, as a **side game for the audience, feel free to count along how many different types of the word “marijuana” I use.**
- At the end of this court case, I will be asking you all to let me know how many words for **doobage** I used in total.

69

CASE NAME: ATTISHA V COMMISSIONER

CASE FOCUS: INCOME – ILLEGAL YERBA BUSINESS

FACTS:

- TPs operated several businesses and filed a “joint” return and the husband was listed as “credit card sales” and the wife was listed as a “homemaker”.
- They reported Sch C income, wages, rental income and partnership income but somehow missed reporting any income from the sale of **cannabis** or the operation of their **grass** business.
- The DEA learned that the TPs were potentially involved in the **ganja** trade and obtained a search warrant

70

CASE NAME: ATTISHA V COMMISSIONER

CASE FOCUS: INCOME – ILLEGAL SMOKE BUSINESS

FACTS:

- The DEA learned that the TPs were potentially involved in the **pot** trade and obtained a search warrant and seized evidence of **weed** activity to include ledgers and notebooks that had information on many aspects of this business to include dollar values of different types of **bud** plants.
- In the criminal case, the husband plead guilty to conspiracy to manufacture, possess with intent to distribute and to distribution of **reefer**.

71

71

CASE NAME: ATTISHA V COMMISSIONER

CASE FOCUS: INCOME – ILLEGAL MOTA BUSINESS

FACTS:

- The TPs had to forfeit assets as part of the plea agreement to admitting to running an unlicensed **hash** dispensary.
- The IRS “piled on” by issuing a notice of deficiency for the taxpayer’s **locoweed** income.

72

72

CASE NAME: ATTISHA V COMMISSIONER**CASE FOCUS: INCOME – ILLEGAL MARY JANE BUSINESS****ANALYSIS:**

- At issue was the calculation of the TP's income. The IRS argued it had great "latitude" in reconstructing income from the illegal sale of **dope** because the TPs failed to keep books and records, refused to answer Revenue Agent questions about income they received from the sale of **Maui Wowie**, and failed to provide the requested documents to the IRS.
- The TP argued that absent this information, it was reasonable for him to determine that the \$512,717 he agreed to forfeit was his income in question during the year at issue.
- This brought up the "presumption of correctness" in regard to unreported income.

73

73

CASE NAME: ATTISHA V COMMISSIONER**CASE FOCUS: INCOME – ILLEGAL AUNT MARY BUSINESS****ANALYSIS:**

- For the "presumption of correctness" to apply, the determination must be supported by a minimal evidentiary foundation.
- Ultimately in a situation of illegal activity (such as selling **Blunt**), the TP has the burden to prove that the IRS determination was arbitrary or erroneous.
- TP then argued that the IRS did not use an approved method of calculating deficiency.
- **IRC 6001** requires all taxpayers to maintain sufficient records to determine their correct tax liabilities.

74

74

CASE NAME: ATTISHA V COMMISSIONER

CASE FOCUS: INCOME – ILLEGAL BROCOLLI BUSINESS

COURT DECISION:

- Court found that because TP did not keep books and records, of the income received from the illegal **Slicky Icky** business, the IRS could calculate income using ANY method that clearly reflects income.

• **IRS WIN!**

75

75

CASE NAME: ATTISHA V COMMISSIONER

CASE FOCUS: INCOME – ILLEGAL DEVIL'S CABBAGE BUSINESS

POP QUIZ:

- How many different types of names did I use?

76

76

CASE NAME: ATTISHA V COMMISSIONER
CASE FOCUS: INCOME – ILLEGAL CHEEBA BUSINESS

POP QUIZ:

- How many different types of names did I use for marijuana?
- **INITIAL ANSWER: 21 (before this slide) and 22 including this slide** (not including the word “marijuana” itself).
 - HINT: I changed the name at the top of each slide in the title page as well as the names in the actual content section of the slides.

77

77

INDIVIDUAL INCOME TAX ISSUES – SNAP SHOT

Income - Jacobowitz v. Commissioner

Facts

Steven Jacobowitz was the sole member of Sagasolutions, a single-member LLC taxed as a disregarded entity. Sagasolutions secured a \$25,000 line of credit. Sagasolutions stopped paying on the loan, and the bank sent the IRS a Form 1099-C, Cancellation of Debt, indicating that it had discharged the loan. Steven did not report the cancellation of debt income on his tax return for the year of the discharge.

Ruling

COD income of a single-member LLC taxed as disregarded entity was COD income to the sole member.

Takeaway: The effect of being “disregarded” is that the entity is treated as a sole proprietor or branch of its owner. Any income for the entity are directly attributable to its owner for federal income tax purposes.

78

IRS ISSUES – SNAP SHOT

Assessment - *Murrin v. Commissioner*

Facts

Stephanie Murrin relied on Duane Howell, a tax return preparer, to prepare her individual and business returns. Without Stephanie's knowledge, Duane placed false or fraudulent entries on those returns with the intent to evade tax.

The IRS did not discover Duane's fraudulent entries until after the expiration of the 3-year period of limitations to assess tax. The IRS nonetheless issued a notice of deficiency for the years at issue, premised on the fraud exception to the 3-year limitation.

Ruling

Preparation of false or fraudulent returns with the intent to evade tax is sufficient to trigger the indefinite period of limitation to assess tax.

[*Murrin v. Commissioner*, T.C. Memo. 2024-10]

Takeaway: The "Fraud Exception" applies not only to the taxpayer but also to any action the tax preparer takes regardless of the knowledge of the taxpayer to the fraud.

79

CASE NAME: WORRELL V COMMISSIONER

CASE FOCUS: BANKRUPTCY

FACTS:

- The bankruptcy court confirmed TP's chapter 13 bankruptcy plan and TP successfully completed the plan 3 years later and the court entered an order granting a discharge.
- TP then sought to enforce the discharge against the IRS arguing that the IRS was attempting to collect on a general unsecured claim for taxes when her confirmed plan provided that unsecured claims were discharged at the plan completion.

80

CASE NAME: WORRELL V COMMISSIONER
CASE FOCUS: BANKRUPTCY

ANALYSIS:

- IRS argued that its claims were not dischargeable under **11USC523(a)(1)(B)(ii)** because the TP filed their returns for 2012 to 2015 on April 28, 2020 (**6 weeks before she filed Chapter 13 petition**).
- This code section does not discharge an individual debtor from any debt for a tax owed on which the return was filed after the date on which the return was due (including any extensions) **AND after 2 years before the date of the filing of the bankruptcy petition.**

81

81

CASE NAME: WORRELL V COMMISSIONER
CASE FOCUS: BANKRUPTCY

COURT DECISION:

- Court concluded that the IRS claim was non-dischargeable in bankruptcy.

• **IRS WIN!**

82

82

CASE NAME: STROM V COMMISSIONER
CASE FOCUS: INNOCENT SPOUSE RELIEF

FACTS:

- TPs filed a joint return. Mark was a doctor and Bernee was a mathematician who worked as a CEO, COO and other positions.
- The TPs shared a home office and records were not restricted from each other.
- Bernee exercised non-statutory stock options that resulted in substantial income of over \$105 million with substantial withholding as well.
- Mark knew Bernee was exercising the stock options and did not object because he trusted her. However, Mark did not review the documentation.

83

83

CASE NAME: STROM V COMMISSIONER
CASE FOCUS: INNOCENT SPOUSE RELIEF

FACTS:

- TPs spoke to a team of tax attorneys and tax consultants to develop the most favorable tax positions for the income attributable from these elections.
- TPs were warned in writing from their **accountants that the firm did not expect their position to be sustained under audit.**
- The TPs claimed a refund of over \$17 million.
- The IRS determined a deficiency and Mark filed for Innocent Spouse.

84

84

CASE NAME: STROM V COMMISSIONER
CASE FOCUS: INNOCENT SPOUSE RELIEF

ANALYSIS:

- **IRC Section 6015(b)** requires the following from a requesting spouse:
 - A Joint Return was filed
 - There is an understatement of tax attributable to erroneous items of the non requesting spouse
 - In signing the return, the requesting spouse did not know and had no reason to know there was an understatement
 - It would be in-equitable to hold the requesting spouse liable for the deficiency
 - A timely election was made under section 6015 (b) – Innocent Spouse

85

85

CASE NAME: STROM V COMMISSIONER
CASE FOCUS: INNOCENT SPOUSE RELIEF

ANALYSIS:

- **Additional Relevant Factors:**
 - Whether the **requesting spouse benefited** from the understatement?
 - Whether the **requesting spouse has been deserted** by the non requesting spouse
 - Whether the spouses have been **divorced or separated**

86

86

CASE NAME: STROM V COMMISSIONER
CASE FOCUS: INNOCENT SPOUSE RELIEF

COURT DECISION:

- Court found that Mark knew about the underpayment of tax as well as benefited from that underpayment

IRS WIN!

87

87

CASE NAME: LEE VS US
CASE FOCUS: REASONABLE CAUSE DEFENSE

FACTS:

- TP (Wayne Lee) hired a tax professional to file his returns for 3 years.
- Each year Wayne reviewed his returns and signed efile (8879).
- However, **tax professional NEVER e-filed** Wayne's returns for all 3 years.
- IRS assessed \$70,000 in penalties to Wayne for late filing penalties.
- **Wayne claimed reasonable cause** to excuse the late filings by relying on his tax professional.

88

88

CASE NAME: LEE VS US

CASE FOCUS: REASONABLE CAUSE DEFENSE

ANALYSIS:

- **IRC 6651** provides that there are exceptions to penalties due to reasonable cause and not due to willful neglect.
- **Reasonable Cause** = TP exercised ordinary business care and prudence but was still unable to file the return on time or pay the tax.
- **Willful Neglect** = a conscious, intentional failure or reckless indifference

89

CASE NAME: LEE VS US

CASE FOCUS: REASONABLE CAUSE DEFENSE

ANALYSIS:

- In **US v Boyle**, the Supreme Court established a bright line that **reliance on an agent** (tax professional) **DOES NOT** amount to **reasonable cause** for failure to file a tax return.
- The court argued that the IRC imposes an unambiguous, precisely defined duty on taxpayers to file their returns on time.
- This **rule also applies to “failure to pay” and not just “failure to file”**

90

CASE NAME: LEE VS US

CASE FOCUS: REASONABLE CAUSE DEFENSE

Taxpayer Argument and Court Decision:

- Wayne argued that he knew the deadlines, he verified his tax professional completed the returns and Wayne signed the efile forms every year before the tax deadline.
- The Court stated that Wayne's choice to trust his Tax Professional was NOT a circumstance outside of his control and did not establish reasonable cause for his failure to file.
- Essentially, Wayne was liable for his tax professional's failure to file.
- Wayne never confirmed either with the tax professional (copy of efile acceptance confirmation) and Wayne did not confirm with the IRS (account transcript) that the returns were filed.
- **IRS WIN!**

91

91

CASE NAME: LEE VS US

CASE FOCUS: REASONABLE CAUSE DEFENSE

Taxpayer Argument and Court Decision:

- Wayne never confirmed either with the tax professional (copy of efile acceptance confirmation) and Wayne did not confirm with the IRS (account transcript) that the returns were filed.

QUESTION: Based on this case, would you consider sending clients proof of efile acceptance (or do you already do this)?

92

92

CASE NAME: TAYLOR V COMMISSIONER**CASE FOCUS: TRUST FUND RECOVERY PENALTY (TFRP)****FACTS:**

- Rodney opened his first consulting business and was the sole owner. He had the authority to hire and fire employees and was the solely in control of the bank accounts.
- Rodney would claim to have a learning disability when it came to math but was otherwise competent to conduct his personal and business affairs.
- He would often delegate business and personal financial responsibilities to employees and accountants including a licensed tax professional.

93

93

CASE NAME: TAYLOR V COMMISSIONER**CASE FOCUS: TRUST FUND RECOVERY PENALTY (TFRP)****FACTS:**

- Rodney hired the accountant to manage the company's bookkeeping and other accounting matters (to include payroll).
- Over a period of time, the **tax professional embezzled over \$1 million** from Rodney.
- The **embezzlement was discovered and the Tax Professional confessed** to the embezzlement and part of the funds were money that were supposed to pay payroll taxes for Rodney's company.
- There was a lawsuit and Rodney received \$175,000 but he did **NOT** use these funds to pay the TFRP related taxes.
- The IRS assessed TFRP to Rodney.

94

94

CASE NAME: TAYLOR V COMMISSIONER**CASE FOCUS: TRUST FUND RECOVERY PENALTY (TFRP)****ANALYSIS:**

- **IRC 6672(a)** provides that any person who is required to collect and pay over any federal tax and who willfully fails to do so is liable for a penalty equal to the total amount of the tax.
- Person is defined (as per IRC 6671 (b)) as an officer, employee of a corporation who is under the duty to collect, account for and pay over the tax.
- Such persons are referred to as a responsible person.
- **For the primary person (usually the owner) the question of knowledge is not primary, instead should the person have had sufficient control over a taxpayer's affairs to ensure payment** of the taxpayer's employment taxes.

95

95

CASE NAME: TAYLOR V COMMISSIONER**CASE FOCUS: TRUST FUND RECOVERY PENALTY****COURT DECISION:**

- Rodney argued that because of his limited ability to comprehend mathematical concepts, he was not a responsible person.
- The IRS argued that due to Rodney's position of authority and control over the company, he was a responsible person and the court agreed with the IRS and Rodney was assessed the TFRP even though he had asked that the funds be paid and the funds were embezzled from him.

• **IRS WIN!**

96

96

CASE NAME: TAYLOR V COMMISSIONER

CASE FOCUS: TRUST FUND RECOVERY PENALTY (TFRP)

CLOSING NOTE:

Willfulness & Knowledge – how this applies to a **secondary** Responsible person

- Unlike the primary person assessed for TFRP, **any secondary responsible parties can use knowledge as a foundation to argue TFRP responsibility.**

97

97

CASE NAME: QUEVY V COMMISSIONER

CASE FOCUS: INCOME – WRONGFUL TERMINATION

FACTS:

- Kristin Quevy worked as an engineer and suffered from anxiety that led to migraines and agoraphobia. She was initially allowed to work from home but was later asked to return to the office to work in person.
- Kristin told her employer she could not return to the deteriorating condition, so her employer put her on unpaid medical leave and as her health continued to deteriorate her employer terminated her employment.
- There was a lawsuit and Kristin was paid \$75,000 to settle the claims of wrongful termination. **Kristen excluded the settlement from her income.**
- IRS disagreed with excluding the settlement payment from income.

98

98

CASE NAME: QUEVY V COMMISSIONER

CASE FOCUS: INCOME – WRONGFUL TERMINATION

ANALYSIS:

- **IRC 104(a)(2)** provides for an **exclusion from income for damages on account of personal physical injuries or sickness.**
- Kristin based her exclusion on this code section due to her illness as the amounts paid for medical care were attributable to emotional distress.
- There **needs to be a direct causal link between the action giving rise to the damages and the sickness.**
- When damages are received pursuant to a settlement agreement, the nature of the claim that gave rise to the settlement controls whether the damages are excludable.

99

CASE NAME: QUEVY V COMMISSIONER

CASE FOCUS: INCOME – WRONGFUL TERMINATION

COURT DECISION:

- Court found that under the terms of the settlement agreement, **the employer compensated Kristen for a broad release of claims** and the agreement characterized the payment as **"severance compensation"**.
- The **payment was intended to resolve all issues** between Kristen and her employer and not just the health issue.
- The court also found that **the surrounding facts and circumstances showed that the employer compensated Kristen for wrongful termination** and not personal physical injuries or physical illness.
- Although damages to compensate for medical care for emotional distress may be excludable, **the court concluded that the settlement agreement did not refer to compensation for medical expenses.**
- **IRS WIN!**

100

CASE NAME: ESTATE-DEMUTH V COMMISSIONER
CASE FOCUS: ESTATE TAX

FACTS:

- William signed a POA appointing his son Donald as his agent.
- Donald made annual gifts to family members from 2007 to 2014 on behalf of his father William.
- On Sept 16, 2015, Donald wrote 11 checks to family members and either mailed them or hand delivered them – the checks totaled \$464,000 from his father's investment account.
- William died on September 18, 2015 (2 days after the issuance of the checks).
- 10 of the 11 checks were cashed **AFTER William's death.**
- The executor excluded the checks from the gross estate for estate tax purposes.
- **IRS determined the 10 checks should have been included in the gross estate** as they took the position that the checks were not cashed before this death.

101

101

CASE NAME: ESTATE-DEMUTH V COMMISSIONER
CASE FOCUS: ESTATE TAX

ANALYSIS:

- **IRC 2031(a)** provides that the gross estate consists of the value of the decedent's property and interest at the time of the decedent's death.
- The Gross estate includes cash belonging to the decedent at the date of his or her death regardless of whether the cash is in the decedent's possession, another person's possession or deposited with a bank.
- For gifts of property, **if the donor parted with dominion and control and had no power to change its disposition, the gift is complete.**
- The gift is incomplete if the donor reserves the power to revest the beneficial title to the property in himself or herself.

102

102

CASE NAME: ESTATE-DEMUTH V COMMISSIONER
CASE FOCUS: ESTATE TAX

ANALYSIS:

- The court applies state law to determine when a gift in the form of a check is completed.
- For this case, William was a Pennsylvania resident and in PA, a **lifetime gift is complete if there is an intention to make the gift AND an actual or constructive delivery at the same time.**
- The delivery of the check alone does not complete the gift because the donor may revoke the gift up and to the time it is deposited or cashed.

103

103

CASE NAME: ESTATE-DEMUTH V COMMISSIONER
CASE FOCUS: ESTATE TAX

COURT DECISION:

- Court found that 7 of the 10 checks were deposited and paid AFTER William's death so those 7 gifts were not complete and remained part of William's estate.

• **IRS WIN!**

104

104

CASE NAME: CONNELLY V UNITED STATES**CASE FOCUS: ESTATE TAX****FACTS**

- * 2 Brothers (Mike and Thomas) were sole shareholders in Crown C and they **entered into a stock purchase agreement that required the company to buy back the shares of the first brother to die.**
- * The **company purchased life insurance** to ensure it had enough cash to purchase the shares.
- * Mike dies in 2013 and the **company received \$3.5 million in life insurance proceeds** and purchased Mike's shares for \$3 million and Mike's estate included the \$3 million in his taxable estate.

105

105

CASE NAME: CONNELLY V UNITED STATES**CASE FOCUS: ESTATE TAX****FACTS (cont.)**

- * **IRS concluded that the \$3 million life insurance proceeds used to buy his shares MUST be included in the value of the company resulting in a higher value** for Michael's shares than what was reported on the estate tax return.
- * The IRS assessed over \$1 million in additional estate tax.
- * The parties stipulated that the value of Michael's shares before the company received the life insurance proceeds was \$2.1 million.

106

106

CASE NAME: CONNELLY V UNITED STATES**CASE FOCUS: ESTATE TAX****ANALYSIS**

- * The **taxable estate is the value of** a decedent's gross estate minus all deductions and includes the decedent's real, personal, tangible and intangible property on the decedent's date of death.
- * The estate argued that the share's fair market value does not include the life insurance proceeds because the stock purchase agreement created an offsetting obligation for the company to redeem Mike's shares.
- * The IRS generally determines the fair market value of property without regard to a buy-sell agreement. However, certain types of buy-sell agreements fall under an exception to this rule.

107

107

CASE NAME: CONNELLY V UNITED STATES**CASE FOCUS: ESTATE TAX****ANALYSIS (cont)**

* To control the value for estate tax purposes, a buy-sell agreement must meet the following requirements under IRC 2703 (b):

1. A **bona fide business arrangement**
2. It is **not a device to transfer property** to members of the decedent's family for **less than full and adequate consideration**.
3. Its **terms are comparable** to similar arrangements entered into by person's in an **arm's length transactions**.

108

108

CASE NAME: CONNELLY V UNITED STATES**CASE FOCUS: ESTATE TAX****ANALYSIS (cont)**

* In addition, Treasury Regulation 20.2031-2(h) as well as case law requires the following additional requirements:

1. The **offering price must be fixed and determinable** under the agreement.
2. The agreement must be **legally binding on the parties both during life and after death.**
3. The restrictive agreement must have been **entered into for a bona fide business reason** and **must not be** a substitute for a testamentary disposition for **less than full and adequate consideration.**

109

109

CASE NAME: CONNELLY V UNITED STATES**CASE FOCUS: ESTATE TAX****ANALYSIS (cont)**

* If a stock purchase agreement does not meet ALL of the requirements then the fair market value of the shares will determine the valuation.

*** The IRS argued the prices of Mike's stock was:**

1. **Not determinable** from the agreement,
2. The **terms were not binding** throughout Michael's life and after his death
3. The agreement was **not a bona fide business arrangement and not comparable** to similar arrangements.
4. The agreement was an **impermissible substitute for a testamentary disposition that transferred wealth** to Michael's family.

110

110

CASE NAME: CONNELLY V UNITED STATES**CASE FOCUS: ESTATE TAX****RULING – Court found:**

- * The value of the corporate shares included the life insurance proceeds.
- * The court found that the estate failed to show that the stock agreement was not a device to transfer wealth to Mike's family members for less than full and adequate consideration and that the \$3 million redemption price was not full and adequate consideration.
- * Court also found that the stock agreement undervalued Mike's shares.
- * The court stated that for privately held businesses (no public market for its shares) the valuation includes the proceeds of life insurance policies owned by the corporation.

IRS WINS!!!!

111

111

IRS ISSUES

P. 470

Reasonable Cause Defense*Lee v. U.S.***Facts**

Wayne Lee hired CPA Kevin Walsh to file Lee's tax returns for 3 consecutive years. Kevin prepared Wayne's tax returns each year. Each year Wayne reviewed the returns and signed IRS Form 8879, authorizing Kevin to e-file the returns on his behalf. But Kevin never filed the returns. The IRS assessed Wayne over \$70,000 in penalties. Wayne claimed that reasonable cause excused the late filings due to his reliance on the CPA.

Ruling

The duty to file tax returns on time lies with the taxpayer, not the agent, regardless of whether the return is e-filed or filed on paper.

112

IRS ISSUES

Reasonable Cause Defense

Johnson v. Commissioner

Facts

John and Judith Johnson filed joint returns. John was in the business of buying, selling, and leasing real estate. They bought a hotel for just over \$4,000,000 and improperly claimed depreciation deductions for 100% of the purchase price. They accomplished this by applying a 7-year depreciation period to the commercial buildings, which should have been subject to a 39-year depreciation period.

Ruling

The taxpayers were liable for the accuracy-related penalty, and reliance on their CPA to prepare the return did not constitute reasonable cause for penalty relief.

113

IRS ISSUES

Supervisor Penalty Approval

Piper Trucking v. Commissioner

Facts

Piper Truck and Leasing (Piper) was a single member LLC. Piper failed to file Forms W-2 for its employees, and the IRS, through its automated Combined Annual Wage Reporting (CAWR) computer program, assessed an I.R.C. § 6721(e) penalty for failure to file. Piper did not respond to the notice or pay the penalty. The IRS sent Piper a Notice of Federal Tax Lien Filing.

Ruling

No supervisory approval was required for a penalty that was automatically determined by the IRS's CAWR computer program.

114



115