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# Rulings & Cases 2022

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# Rulings & Cases 2022 (p 415) Chapter 11

Business Tax Issues

Individual Issues

IRS Issues

Other

# Rulings & Cases 2022

Introduction (p 416)

Substantial Authority (p 417)

Substantial Understatement Penalty

Authorities (p 418)

IRS FAQs (p 419)

Internal Revenue Code – Regulations (p 419)

Federal Court Cases (pp 420 - 421)

Other (pp 422 – 423)

Practitioner Note (p 423)

# Rulings & Cases 2022

NEW National Taxpayer Advocate  
report to Congress – most litigate  
Issues

Tax Court cases June 1, 2020 and  
May 31, 2021

- 1 Gross income (IRC § 61 and related Code sections)
- 2 Trade or Business Expenses (IRC § 162(a) and related Code sections)
- 3 Collection Due Process (CDP) Hearings (IRC §§ 6320 and 6330)
- 4 Charitable contributions Deduction (IRS § 170)
- 5 Schedule A Deductions (IRC §§ 211 - 224)

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## Business Tax Issues

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# Rulings & Cases 2022

“One way to think about tax law is to view it as a series of general rules qualified by exceptions, and exceptions to those exceptions, and exceptions to those exceptions to those exceptions. This may be a helpful way to begin to think about the tax-accounting issues we have to analyze in this case.” (Judge Holmes)

*Continuing Life Communities Thousand Oaks LLC v. Commissioner* (TC Memo 2022-31)

# Business Tax Issues

*Kellett v Commissioner* (TC  
Memo 2022-62) (p 428)

§ 162 Trade or business  
expenses

§ 195 Start-up  
expenditures

Rev. Proc 2000-50

*Pediatric Impressions Home Health v  
Commissioner* (TC Memo 2022-35)  
(p 431)

§ 3121 Definition (Employment  
Taxes, General Provisions)

§ 3306 Definitions  
(Employment Taxes, Federal  
Unemployment Tax Act)

Employee vs Independent Contractor

# Business Tax Issues

NEW *Struble v Commissioner* (TC Summary Opinion 2022 – 1, Jan 6, 2022)

§ 162 Trade or business expenses

§ 274 Disallowance of certain entertainment, etc., expenses

Form 2106, Employee Business Expenses

NEW *Eze v Commissioner* (TC Memo 2022-83, Aug 4, 2022)

§ 162 Trade or business expenses

§ 274 Disallowance of certain entertainment, etc., expenses

§ 6662 Imposition of accuracy-related penalty on underpayments



# Business Tax Issues

NEW *Lipsky v Commissioner* (TC  
Order, served Jan 14, 2022)

§ 6330 Notice and opportunity  
for hearing before levy

IRS Letter 1153 10-Day  
Notification Letter, Trust Fund  
Recovery Penalty Proposed

NEW PLR 2022-23-022/2022-23-007  
(Release date June 10, 2022)

§ 481 Adjustments required by  
changes in method of  
accounting

§§§ 301.9100- 1, -2, -3  
Extension of time to make  
elections

Form 3115, Application for  
Change in Accounting Method

NEW Information Letter 2021-0029 (Sept 23, 2021;  
released letter Dec 30, 2021)

§ 7701 Definitions (Misc. Provisions) Tax Preparer

Teas Reg §301.7701-15 Tax Return Preparer

Is the controller a tax preparer?

# Individual Issues

*Romana v Commissioner* (TC  
Summary 2022-9, June 16, 2022)  
(p 438)

§ 162 Trade or business  
expenses

Work clothing – unreimbursed  
business expenses

*Blum v Commissioner* (129 A.R.T.R.  
2<sup>nd</sup> (RIA) 2022-1170 (9<sup>th</sup> Cir, June 2,  
2022) (p 443)

§ 61 Gross income defined

§ 104 Compensation for  
injuries or sickness

Legal malpractice settlement

# Individual Issues

NEW *Jones v Commissioner* (CA-9  
Tax Ct No 32168-15, Jan 18, 2022)

§ 6013 Joint returns of income  
tax by husband and wife

§ 6015 Relief from Joint and  
several liability on joint return

§ 7482 Courts of review

“Tacit Consent”

NEW *Salter v Commissioner* (TC  
Memo 2022-29, April 5, 2022)

§ 63 Taxable income defined

§ 63 (e) Election to itemize

§ 213 Medical, dental, etc.,  
expenses

Failure to file

# Individual Issues

NEW *E. Weston v U.S.* (US Ct of Appeals Federal Circuit, April 13, 2022)

§ 6532 Periods of limitation on suits

§ 7502 Timely mailing treated as timely filing and paying

§ 7422 Civil actions for refunds

NEW Refund claims – Nationwide Disaster Declaration

§ 7508A Authority to postpone certain deadlines by reason of Presidentially declared disaster or terroristic or military action

§ 6511(a) Limitations on credit or refund – period of limitation on filing claim

§ 6511(b)(2) Limitation on allowance of credits and refunds – limit on amount of credit or refund

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Business Tax Issues

Individual Issues

IRS Issues

Other

*Larochelle v Commissioner* (TC  
Summary Opinion 2022-12, July 12,  
2022) (p 452)

§ 6664 Definitions and special  
rules – Penalties

§ 6662 Imposition of accuracy-  
related penalty on  
underpayments

Relied on tax practitioner

*In re Stephenson* (129 AFTR 2d (RIA)  
2022-752, Bankr. W.D. Tn) (p 453)

§ 6321 Lien for taxes

§ 6323 Validity and priority  
against certain persons

# IRS Issues

*Lissack v Commissioner* (TC Opinion 157-5, Aug 18, 2021; Appealed D.C. Circuit Dec 16, 2021; oral arguments no yet scheduled Aug 10, 2022)

(p 454)

§ 7623 Expenses of detection of underpayments and fraud, etc.

NEW IRS Whistleblower Office – Annual Report to Congress (dated Nov 15, 2021, released June 2022)

Ten most common allegation submitted in FY

Unreported income

General allegations of fraud

False dependent exemptions

Employee vs subcontractor



NEW *U.S. v Weathers* (W.D.  
Arkansas, Aug 10, 2022)

§ 6015 Relief from joint and  
several liability on joint return

§ 6320 Notice and opportunity  
for hearing upon filing a notice  
of lien

§ 6672 Failure to collect and  
pay over tax, or attempt to  
evade or defeat tax

DOJ misinforms District Court on IRC  
§ 6015(f) relief filing deadline

NEW *Colber v Commissioner* (TC Memo 2022-74, July 13, 2022)

§ 6662 Imposition of accuracy-related penalty on underpayments

§ 6751 Procedural requirements

IRS approval penalties

NEW *Xanthopoulos and Fogg v IRS* (8 Circuit, No. 21-2502, June 3, 2022)

IRM § 21.1.3.3 Third party (POA/TIA/F706) Authentication

5 U.S.C. § 552 Public information; agency rules, opinions, orders, records, and proceedings

Reverse and remand for in camera inspection

NEW *PolSELLI v U.S* (Supreme Court, June 24, 2022)

§ 7609 Special procedures for third-party summonses

§ 7609(c)(2)(D)(i) Summons to which section applies; exceptions; issued in the aid of collection of; an assessment made...

When IRS must give notice to taxpayer..

NEW *Boechler, P.C. v Commissioner* (Supreme Court No. 20-1472, April 21, 2022)

§ 6330 Notice and opportunity for hearing before levy

§ 6330(d)(1) Proceeding after hearing; Petition for review by Tax Court (30 days)

HELD: 30-day time limit is a nonjurisdictional deadline subject to equitable tolling

# Other

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