

American College of Tax Counsel Files Amicus Brief with the Third Circuit

ROCHESTER, NY, UNITED STATES, September 24, 2024 /EINPresswire.com/ -- The American College of Tax Counsel (the "College") announces the filing on September 18, 2024, of an amicus brief with the United States Court of Appeals for the Third Circuit in the case of *Murrin v. Commissioner*, No. 24-203723-914. The College filed the amicus brief in support of the appellant-petitioner and seeks a reversal of the U.S. Tax Court's decision.



The College feels strongly that the Service and the Tax Court's interpretation of section 6501(c)(1) fails to give effect to fundamental tenets of taxpayer rights."

Bahar Schippel, President of the American College of Tax Counsel

Background of the Case

The issue in the case is whether the fraud of a tax return preparer or other third party allows the Internal Revenue Service ("Service") to assess tax, penalties, and interest at any time, even where the taxpayer had no knowledge of or involvement in the fraud. The provision at issue, 26 U.S.C. § 6501(c)(1) ("section 6501(c)(1)"), provides that the general three-year statute of limitations to assess additional tax

does not apply "[i]n the case of a false or fraudulent return with the intent to evade tax." In *Murrin v. Commissioner*, T.C. Memo. 2024-10, the Tax Court looked to a prior division opinion (*Allen v. Commissioner*, 128 T.C. 37 (2007)) as controlling precedent and rejected Ms. Murrin's arguments that section 6501(c)(1)'s phrasing of "intent to evade tax" refers solely to the intent of the taxpayer.

Murrin is an important case with a significant impact on federal tax procedure. The issue of whether third-party fraud triggers section 6501(c)(1) has given rise to a split, as the Federal Circuit held (in *BASR Partnership v. United States*, 795 F.3d 1338 (Fed. Cir. 2015)) that third-party fraud alone does not trigger section 6501(c)(1).

The College's Brief

The College's brief focuses on the significant adverse implications to tax policy and administration of the Tax Court's decision, including the substantial harm imposed on low-income taxpayers. The College asks the Third Circuit to reverse the Tax Court.

"The College feels strongly that the Service and the Tax Court's interpretation of section

6501(c)(1) fails to give effect to fundamental tenets of taxpayer rights,” said Bahar A. Schippel, President of the College’s Board of Regents. Caroline D. Ciraolo, who appeared as counsel of record for the College, added: “While fraud by tax return preparers and other advisors is unacceptable and to be sanctioned, the Service has various tools to pursue and collect from those third parties. When taxpayers file their return in good faith and without knowledge of any fraud, they have a right to finality and should not face audits and assessments years or even decades after the return was filed, when documents have been lost, memories have faded, and witnesses have become unavailable.”

About Amicus Briefs

A brief by Amicus Curiae (“friend of the court”), known familiarly as an amicus brief, allows a person or organization with a strong interest in or important views on the subject matter of a case to file a brief explaining those views and urging the court to rule in a manner consistent with those views. Amicus briefs are often filed in cases of broad public interest and are filed with the permission of the court and typically, as in this instance, with the consent of all the parties in the case. The College’s brief in this case was submitted by its governing Board of Regents, represented by attorneys Caroline Ciraolo and Michael Waalkes of Kostelanetz LLP and Tom Cullinan of Chamberlain, Hrdlicka, White, Williams & Aughtry.

About the American College of Tax Counsel

The American College of Tax Counsel, founded in 1981, is a nonprofit association of tax attorneys in private practice, law, business, and graduate school teaching positions, and government, who are recognized for their excellence in tax practice and their substantial contributions and commitment to the legal profession. One of the chief purposes of the College is to provide a mechanism for input by tax attorneys into the development of U.S. tax laws and policy. A Board of 19 Regents serves as the governing body of the College, with one regent drawn from each of the 13 federal judicial circuits, plus two at-large positions. The Board is rounded out by the four members of its Executive Committee—President, Vice President, Secretary-Treasurer, and Immediate Past President. The College can be found online at <http://www.actconline.org>.

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