

American College of Tax Counsel Files Amicus Brief with U.S. Court of Appeals for the Second Circuit

ROCHESTER, NY, UNITED STATES, April 22, 2026 /EINPresswire.com/ -- The American College of Tax Counsel (the "College") announces the filing, on April 20, 2026, of an amicus brief with the United States Court of Appeals for the Second Circuit in the case of GWA, LLC ("GWA"), Michelle M. Lanzoni, Tax Matters Partner (No. 26-7). The College filed the brief in support of GWA. The

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*Ameek Ashok Ponda,
President of the American
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issue in the case concerns the appropriate scope and application of the change in accounting method ("CAM") rules. In the College's view, the Tax Court's decision expands the application of the CAM rules beyond the Code and Treasury regulations in a manner that could sow considerable uncertainty in circumstances where the IRS identifies an issue after the limitations period has expired for earlier impacted tax years.

Background of the Case

Internal Revenue Code ("Code") section 446 requires taxpayers to use a consistent method of accounting to compute taxable income, and it allows the IRS to require a

different method if the chosen one does not "clearly reflect income." When there has been a CAM, section 481 of the Code allows an adjustment to correct an omission or duplication of an item of income or deduction resulting solely from that change. The section 481 adjustment may involve an adjustment to income relating to years otherwise closed by the statute of limitations. Therefore, the Code and Treasury regulations narrowly limit the circumstances when a section 481 adjustment may be made.

The College's Brief

GWA reported gains on option contracts when those contracts were terminated, which is when the option contracts are treated as sold or exchanged. This is the Code section 1001 method, which requires taxpayers to recognize gain or loss on the sale or exchange of property. The Tax Court recast what GWA owned from option contracts to securities but continued to keep GWA on the 1001 method for the securities, thereby requiring GWA to recognize gain or loss when the

securities are sold or exchanged.

The College's brief explains that the statute of limitations should not be circumvented in this case because GWA did not change its method of accounting, as section 481 requires. The Tax Court changed what GWA owns, so there is no omission of income or duplicated deductions due solely to a CAM, and section 481 does not apply. The brief also explains that there is no CAM under the Treasury regulations because there is no change to a material item. The Tax Court's recast results in completely different items of income or deduction. While the Tax Court is free to recast the transaction, the CAM rules provide no grounds for reaching back into closed years.

The College's brief takes no position on the substantive characterization of the instruments at issue in the case.

The College's brief in this case was submitted by its governing Board of Regents, represented by attorneys Lee S. Meyercord and Mary A. McNulty of Holland & Knight, L.L.P. Thanking the drafters for their work on the brief, Ameek Ashok Ponda, President of the College, observed that "the Tax Court's expansion of the CAM rules raises significant fairness issues for taxpayers because it could allow the IRS to use the CAM rules to make adjustments to years otherwise closed by the statute of limitations. The expansion could be particularly problematic for small and mid-size businesses and other taxpayers that lack the resources to challenge the IRS on the application of the complex and often nuanced CAM rules, resulting in the assessment and payment of significant taxes that should otherwise be time-barred."

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.

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 nineteen Regents serves as the governing body of the College, with one regent drawn from each of the thirteen 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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