

# US Tax Litigation

## **Examination to Collection**

THEVOZ & Partners will represent clients in the United States Tax Court. US Tax Court provides a national forum for the expeditious resolution of disputes between taxpayers and the Internal Revenue Service. Established under article 1 of the Constitution of the United States, The Tax Court is a court of law exercising judicial power independent of the Executive and Legislative Branches. The Tax Court is one of the courts in which taxpayers can bring suit to contest IRS determinations, and it is the primary court in which taxpayers can do so without prepaying any portion of the disputed taxes.

## **Pre-Audit**

The US tax system is built on taxpayers self-reporting their liabilities. The IRS is responsible for reviewing those returns and, in some cases, examining a return for mistakes. IRS examinations take shape in a few different ways. They can happen automatically through the IRS's Automated Under Reporter (AUR), in the form of a correspondence examination (this goes hand in hand with the Correspondence Examination Automation Support system), or as an in-person audit. The best defense is a timely and correctly filed tax return, we can help with compliance on the front end.

## **Handling the IRS Examination**

The IRS has various tools to gather information related to the return. First, they may contact you, the taxpayer, with an information document request (IDR). Second, they may make contact with third parties to verify information provided. Third, they may conduct an in-person interview. Fourth, they may issue a summons for either documents, testimony, or both. During these initial stages, it can be extremely important to have representation to assist you with responding to the IRS since information gathering is generally a precursor to future litigation. We can help with everything from responding to an IDR or summons to representing you in a summons interview.



## **The Notice of Deficiency**

Once the IRS has compiled its findings it issues a “30-day letter” which contains a computation report of proposed adjustments to your tax return. With the receipt of a 30-day letter, your attorney may decide that it would be appropriate to file a protest and appeal the proposed adjustments with the Office of Appeals. If no protest is filed, the IRS will issue a statutory notice of deficiency. This is sometimes referred to as a “90-day letter” because a taxpayer that wants to challenge the deficiency in Tax Court has 90 days to do so. It is important to timely file a petition with the Tax Court since this court allows a taxpayer to challenge the deficiency without paying the proposed liability. If a taxpayer does not file a petition with the Tax Court, the alternative is that they will be required to pay for the tax and then sue for a refund in district court. This can be extremely costly.

## **Representation before the Office of Appeals**

After petitioning the Tax Court, the government answers the petition, and then case will then go to the Independent Office of Appeals (assuming that no protest was filed before the issuance of the notice of deficiency). An attorney specializing in controversy work can present your case to Appeals. Often times negotiating a settlement on your behalf without the need for more time-consuming and costly litigation.

## **Litigation before the Tax Court**

If the case does not get settled in Appeals, the case will need to be prepared for trial. Taking a case to trial can be quite challenging and requires professional representation for the best results. The Tax Court expects the parties to work together to draft a complete Stipulation of Facts and responses to discovery may be in order. In addition, there might be a need to respond to motions, track down witnesses, and locate evidence that is beneficial to the taxpayer’s case. A pre-trial memorandum is required in all cases going to trial. At trial, the judge may expect testimony from the taxpayer and, in some cases, third-party witnesses. After the trial, judges expect the parties to brief the case in detail, laying out its legal position and applying the findings of fact to the relevant law. In addition, the taxpayer may be presented with an opportunity to respond to the government’s brief and it is important to properly refute the government’s position if the taxpayer wants a chance of prevailing. After deliberations, which generally take months, the judge will rule on the case. In



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situations where the ruling is unfavorable, it may be prudent to appeal the case.

### **Professional Help is Invaluable**

From the outside, this entire process is complex, but with an experienced tax litigator, this process can be relatively straightforward, and these tax matters can be resolved once and for all. At THEVOZ & Partners we have the experienced attorneys that have litigated cases in the Tax Court and can help you with everything from the initial examination all the way through trial and even the collection process, if need be. If you have questions about the IRS collection process, you can check out our page on the topic [here](#).