

Federal Tax Update – February 2021



INDIVIDUALS

In *Anikeev v. Commissioner*, TC Memo 2021-23, the Tax Court considered the case of a couple who profited by using their credit cards for rewards in the form of gift certificates but then acquired money orders and debit cards with the gift cards; the Court found an accretion to wealth on the conversion to money orders and gift cards not exempt by the IRS policy on credit card rewards.

In *Stassi v. Commissioner*, TC Summary Opinion 2021-5, the Tax Court determined that an \$80,000 settlement for wrongful discharge after filing complaints was fully taxable despite the settlement agreement stating that payment was in “consideration for physical manifestations of emotional distress claims” as all prior documents failed to mention any physical injury – an allegation was first made at trial that the stress brought on shingles.

In *Blum v. Commissioner*, TC Memo 2021-18, the Tax Court held that a malpractice settlement payment by attorneys who represented the taxpayer in an unsuccessful personal injury case was taxable as no physical injury was caused by the defendant.

RETIREMENT AND ESTATE PLANNING

In *Estate of Warne v. Commissioner*, TC Memo 2021-17, the Tax Court stated that the proper valuation of charitable bequests of an entire LLC to two different charitable organizations is computed based on the value of what the organizations received, thus the estate must include 100 percent of the value of the LLC but it may deduct only the sum of the discounted values received by the charities.

BUSINESS

In *San Jose Wellness v. Commissioner*, 156 TC No. 4, the Tax Court concluded that a legal medical marijuana dispensary could not deduct depreciation or charitable contributions consistent with its prior decisions of only allowing a deduction for cost of goods sold; in *Desert Organic Solutions v. Commissioner*, TC Memo 2021-22, the Tax Court once again found that sales of non-marijuana products were so minimal that all expenses other than for cost of goods sold should be denied.

In Information Letter 2021-0031, IRS announced that employees cannot receive cash refunds for unused amounts remaining on transit passes.

PROCEDURE

In *Bedrosian v. United States*, 127 AFTR2d 2021-771, a Pennsylvania Federal District Court found that the imposition of a 50 percent of account balance penalty by IRS in the case of a willful FBAR violation was not an abuse of discretion.

In *United States v. Weber*, 127 AFTR2d 2021-793, the Second Circuit Court of Appeals upheld a New York Federal District Court jury verdict convicting an individual of willfully filing a false return as a nonresident alien because he claimed to be a citizen of New York and not of the United States.

In *BM Construction v. Commissioner*, TC Memo 2021-13, the Tax Court concluded that receipt of a 30-day letter gives a taxpayer the opportunity to present substantive issues, precluding these issues from being raised at a CDP hearing; the Court had previously ruled similarly in the case of receipt of a 90-day letter.

In *In Re: Candy*, 127 AFTR2d 2021-816, a Tennessee bankruptcy court refused to discharge an attorney's income tax liability in bankruptcy, finding a conduct of late filing and titling properties in his wife's name.

In *Rogers v. Commissioner*, TC Memo 2021-20, the Tax Court rejected innocent spouse status in the case of a divorcee who maintained her husband's books and records and should have had knowledge of the understatement of income.