

Amicus Briefs Filed by the American College of Tax Counsel

<u>Case Name</u>	<u>Court</u>	<u>Date</u>	<u>Issue</u>	<u>Counsel of Record</u>	<u>Outcome</u>
<i>Murrin v. Commissioner</i>	U.S. Supreme Court	03/23/2026	Certiorari Petition; whether Section 6501(c) allows the government to bypass the statute of limitations on assessment based on the fraudulent conduct of third parties where the taxpayer had no knowledge of the fraud	Caroline Ciraolo, Michael Waalkes, Kostelanetz; Thomas Cullinan, Chamberlain Hrdlicka	Our brief supports the granting of a writ of certiorari; no decision as of 3/20/2026.
<i>State of Florida v. State of California.</i>	U.S. Supreme Court	12/31/2025	Whether the Court should permit Florida's motion to file a bill of complaint to review and determine constitutional questions presented by California's special apportionment rule impacting multistate taxation	Lynn A. Gandhi and Elizabeth (Nevle) Gallio, Foley & Lardner LLP	No action by the Court as of 3/20/26.
<i>Learning Resources, Inc. v. Trump; and Trump v. V.O.S. Selections, Inc., et al.</i>	U.S. Supreme Court.	10/24/25	Whether the President's imposition of tariffs under International Emergency Economic Powers Act (IEEPA) authorizes the President to impose tariffs or is inconsistent with the Taxing and Spending Clause of the United States Constitution	John M. Colvin and Jason A. Harn, Colvin + Hallett, P.S.; and Professor of Law Theodore P. Seto of the Loyola Law School at Loyola Marymount University	Opinion issued 2/20/26 that IEEPA does not authorize the President to impose tariffs.

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<i>Shleifer v. United States</i>	Eleventh Circuit	10/23/2025	Whether the substantial variance doctrine was invoked in a manner consistent with its history and purpose	Robert S. Horwitz and Melissa Briggs, Hochman Salkin Toscher Perez P.C.; Kathleen M. Pakenham and Stephen A. Josey, Vinson & Elkins LLP	No decision as of March 20, 2026.
<i>Bank United, Inc. v. United States</i>	Eleventh Circuit	07/09/2025	Whether statutes of limitations prevent taxpayers from relying on facts from earlier years to support a claim for refund; and whether claims for refund may be inconsistent with prior positions taken by the taxpayer	Michael Desmond, Kevin Kenworthy, and Jaclyn Roeing, Miller & Chevalier Chartered	No decision as of 03/20/2026.
<i>Murrin v. Commissioner</i>	Third Circuit	09/18/2024	Whether Section 6501(c) allows the government to bypass the statute of limitations on assessment based on the fraudulent conduct of third parties where the taxpayer had no knowledge of the fraud	Caroline Ciraolo, Michael Waalkes, Kostelanetz; Thomas Cullinan, Chamberlain Hrdlicka	Third Circuit issued an amended opinion, but the taxpayers petitioned for petitioned for certiorari to the Supreme Court (see above).
<i>Patel v. Commissioner</i>	U.S. Tax Court	09/06/2024	Whether Section 7701(o) requires a threshold relevancy determination, and when the economic substance doctrine may not be “relevant” under Section 7701(o)	Miriam Fisher, Jean Pawlow, Latham & Watkins	Opinion issued 11/12/25 that the codified economic substance doctrine requires a relevancy determination, and that the doctrine was relevant in these related cases.

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<i>Salvador v. United States</i>	U.S. Supreme Court	08/29/2024	Whether and under what circumstances debt from a late-filed return can be discharged in bankruptcy	Andrew Weiner, Kostelanetz	No decision as of 3/20/2026.
<i>Zilka v. Tax Review Board of the City of Philadelphia</i>	U.S. Supreme Court	03/25/2024	Certiorari petition; How the dormant commerce clause applies to a state tax scheme that allocates income taxing authority between the state and its localities	Andrew Weiner, Kostelanetz	Petition for certiorari denied 1/13/2025.
<i>Moore v. United States</i>	U.S. Supreme Court	10/23/2023	Whether the 16 th Amendment authorizes Congress to tax unrealized sums without apportionment among the States	Richard Corn, Proskauer Rose	Opinion issued 6/20/2024 in favor of the government, holding that the repatriation tax was a tax on income that is not required to be apportioned.
<i>Quad Graphics v. North Carolina DOR</i>	U.S. Supreme Court	04/13/2023	Whether North Carolina may impose sales tax on sales completed out of state where the delivery of goods was in North Carolina	Wells Hall, Nelson Mullins	Petition for certiorari denied on 6/20/2023.
<i>In re Grand Jury</i>	U.S. Supreme Court	11/23/2022	Scope of attorney-client privilege with respect to tax advice	Hashim Mooppan, Jones Day	Oral argument on 1/9/2023. Writ of certiorari dismissed on 1/23/23 as improvidently granted.

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<i>Zilka v. Tax Review Board of the City of Philadelphia</i>	Supreme Court of Pennsylvania	09/16/2022	Whether Delaware taxes can be credited against the Philadelphia Wage Tax liability	Joan Arnold, Troutman Pepper	PA Supreme Court held on 11/22/2023 that Philadelphia does not have to grant wage tax credits for taxes paid to another state (Delaware) if it creates a “double tax” only when combining state and local taxes, which the court ruled need not be aggregated
<i>Bittner v. United States</i>	U.S. Supreme Court	08/24/2022	Whether penalty for non-willful failure to file FBAR apply per form or per account	Caroline Ciraolo, Kostelanetz & Fink	On 2/28/2023, the Supreme Court issued a decision in favor of the taxpayer.
<i>Bittner v. United States</i>	U.S. Supreme Court	04/01/2022	Certiorari petition regarding multiple penalties for non-willful failure to file FBAR	Caroline Ciraolo, Kostelanetz & Fink	Certiorari Petition granted on 6/21/22.
<i>VAS Holdings & Investments LLC v. Commissioner of Revenue</i>	Mass. Supreme Ct	12/15/2021	Ability of state to tax gain on sale of assets held by LLC	Richard L. Jones, Sullivan & Worcester	On 6/16/2022, the Massachusetts Supreme Court ruled that while there was no constitutional prohibition on the tax, state law did not authorize the imposition of the tax.
<i>In re Grand Jury</i>	Ninth Circuit	11/3/2021	Scope of attorney-client privilege with respect to tax advice	Jenny Johnson Ware, McDermott Will & Emery	On 1/27/2022, the Court revised its opinion to include important clarification regarding attorney-client privilege.
<i>Taylor Lohmeyer Law Firm v. United States</i>	U.S. Supreme Court	06/16/2021	Cert petition regarding disclosure of law firm client list pursuant to John Doe summons	Lawrence Hill, Steptoe & Johnson	Certiorari denied 10/4/2021.

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<i>Buck vs. Utah State Tax Commission</i>	Utah Supreme Ct	12/10/2020	Domicile of taxpayer under irrebuttable presumption	Steven Young, Holland & Hart	On 2/24/2022, the Court issued a decision in favor of taxpayer.
<i>CIC Services v. Internal Revenue Service</i>	U.S. Supreme Court	07/22/2020	Application of Anti-Injunction Act	David Foster, Skadden	On 5/17/2021, the Court issued a decision in favor of taxpayer.
<i>McLane v. Internal Revenue Service</i>	Fourth Circuit	06/29/2020	Ability of Tax Court to make a refund determination	Frank Agostino Agostino & Associates	On 1/25/2022, the Court issued a decision in favor of government.
<i>Taylor Lohmeyer Law Firm v. United States</i>	Fifth Circuit	06/15/2020	Disclosure of law firm client list pursuant to John Doe summons	Lawrence Hill, Winston & Strawn	On 12/14/2020, the Court declined to grant rehearing en banc.
<i>CIC Services v. Internal Revenue Service</i>	U.S. Supreme Court	02/14/2020	Certiorari petition regarding application of Anti-Injunction Act	David Foster, Skadden	Certiorari granted.
<i>United States v. Boyd</i>	Ninth Circuit	11/15/2019	Multiple penalties for non-willful failure to file FBAR	Caroline Ciraolo, Kostelanetz & Fink	On 3/24/2021, the Court issued a decision in favor of taxpayer.
<i>Rodriguez v. FDIC</i>	U.S. Supreme Court	05/13/2019	Certiorari petition regarding ownership of tax refund in bankruptcy; application of <i>Bob Richards</i> rule	Peter Connors, Orrick	Certiorari granted.
<i>North Carolina v. Kaestner Family Trust</i>	U.S. Supreme Court	03/25/2019	Ability of North Carolina to tax non-resident beneficiaries of trust	Wells Hall, Nelson Mullins	On 6/21/20219, the Court issued a decision in favor of the taxpayers.

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<i>Groves v. United States</i>	Seventh Circuit	09/14/2018	Application of tax penalty under Section 6700	Armando Gomez, Skadden	Interlocutory appeal denied; case remanded for further proceedings in district court.
<i>Haynes v United States</i>	Fifth Circuit	11/27/2017	Reasonable cause defense to penalty for failure to timely, electronically file tax return	Peter Connors, Orrick	Remanded to district court.
<i>Marinello v. United States</i>	U.S. Supreme Court	09/17/2017	Application of residual clause of Section 7212(a)	Jenny Johnson, Johnson Moore	Decision in favor of taxpayer.
<i>Marinello v. United States</i>	U.S. Supreme Court	04/21/2017	Certiorari petition regarding residual clause of Section 7212(a)	Jenny Johnson, Johnson Moore	Certiorari granted.
<i>Sonoco Products v. State of Michigan</i>	U.S. Supreme Court	12/22/2016	Certiorari petition regarding retroactive tax legislation and application of the Due Process Clause	Stewart Weintraub, Chamberlain Hrdlicka	Certiorari not granted.
<i>Dot Foods v. State of Washington</i>	U.S. Supreme Court	10/05/2016	Certiorari petition regarding retroactive tax legislation and the application of the Due Process Clause	Peter Faber, McDermott	Certiorari not granted.
<i>Finnegan v. Commissioner</i>	U.S. Tax Court	7/25/2016	Whether the Tax Court should reconsider its decision in <i>Allen</i> , 128 T.C. 37 (2007), regarding whether the fraud exception to the statute of limitations when it was the preparer, not the taxpayer, who engaged in fraud	Paula Junghans, Zuckerman Spaeder	Tax Court declined a motion for reconsideration and declined to file the College's brief as moot.

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<i>Little Italy Oceanside Investments v. United States</i>	Eastern District Michigan	05/01/2015	Refund of money seized pursuant to a tax lien	Mathew Lund, Pepper Hamilton	Decision in favor of government.
<i>BASR Partnership v. United States</i>	Fourth Circuit	07/29/2014	Statute of limitations bypass on fraudulent activity of third party	Paula Junghans, Zuckerman Spaeder	Decision in favor of taxpayer.
<i>Bobrow v. Commissioner of Internal Revenue</i>	U.S. Tax Court	03/20/2014	Validity of IRS position on 60-day rollover rule for retirement plan investments in light of IRS publication that allowed broader interpretation	Kenneth Gideon, Skadden	Stipulated decision was issued in favor of taxpayer and IRS issued Announcement 2014-15, stating that it would not enforce the new rule on IRA rollovers until January 1, 2015.
<i>Home Concrete v. United States</i>	U.S. Supreme Court	12/22/2011	Validity of retroactive regulations regarding extended statute of limitations	Clifford Sloan, Skadden	Decision in favor of taxpayer.