

PRO SE PRECEDENT IN THE U.S. TAX COURT: A CASE
FOR AMICUS BRIEFS

By: Keith Fogg* & Caitlin Hird+

I.	INTRODUCTION.....	3
II.	THE U.S. TAX COURT PROCESS	7
	A. <i>The Court Process</i>	7
	B. <i>What is Precedential?</i>	8
III.	PRO SE TAXPAYERS	11
	A. <i>Pro Se Taxpayers Generally</i>	11
	B. <i>Pro Se Taxpayers in the Tax Court</i>	13
	i. <i>Analysis of Precedential Tax Court Cases</i>	14
IV.	LOW INCOME TAX CLINICS AND BAR PROGRAMS.....	17
	A. <i>LITCs and Pro Se Petitioners</i>	18
	B. <i>Bar Programs and Pro Se Petitioners</i>	19
V.	FOCUS CASES.....	20
	A. <i>Unfavorable Precedent in Pro Se cases</i>	20
	i. <i>Greene-Thapedi v. Commissioner</i>	21
	ii. <i>Moya v. Commissioner</i>	22
	iii. <i>Lewis v. Commissioner</i>	23
	iv. <i>Ramey v. Commissioner</i>	27
	B. <i>Cases with LITC Assistance</i>	29
	i. <i>Ibrahim v. Commissioner</i>	29
	ii. <i>Palomares v. Commissioner</i>	30
	iii. <i>Trimmer v. Commissioner</i>	31
	iv. <i>Myers v. Commissioner</i>	32
	C. <i>Other Cases of Note</i>	32
	i. <i>Beard v. Commissioner</i>	32
VI.	COURT PRACTICES IN THE USE OF PRO BONO PANELS OR AMICUS BRIEFS 33	
VII.	THE PROPOSAL.....	37
	A. <i>The Adversarial Process</i>	37
	B. <i>LITCs, Amicus Briefs, and Pro Se Petitioners</i>	41
	C. <i>Why the Haves Come Out Ahead and Impact on Precedent</i> ...	43
	D. <i>Low Resourced Litigants</i>	45
	E. <i>Precedent Deserts</i>	46

* Emeritus Clinic Professor at Harvard Law School.

+ Graduate of Harvard Law School, Class of 2022.

VIII. CONCLUSION	47
IX. APPENDIX.....	49

In *Walquist v. Commissioner*, decided in 2019, a married couple petitioned the Tax Court for a redetermination of penalties from their failure to report unemployment compensation.¹ Many unrepresented taxpayers trip over the idea that unemployment compensation is income. They feel that payments for unemployment represent the opposite of income, a fact often reinforced by the failure of the agency making the payments to withhold income taxes. The taxpayers' feelings on that issue ran strong, but this case provides a relatively clean factual issue where having or not having an attorney probably did not make a significant difference in factual development. Like many pro se taxpayers, the Walquists failed to do what they needed to do to follow the Tax Court rules, and the IRS moved to dismiss their case.

The Court not only granted the IRS's motion to dismiss for lack of proper prosecution by the taxpayers, notwithstanding the fact that the taxpayers were, in this case, unrepresented, but it also upheld the imposition of a penalty of \$12,500.² The facts of the case as recounted by the Tax Court do not shed a favorable light upon the petitioners.³ The Court noted that they asserted frivolous claims (including that U.S. currency is not "lawful money")⁴ and filed a separate suit against the Secretary of Treasury in relation to such claims. The Court was noticeably unhappy with the actions of the pro se petitioners and made that clear in the opinion. However, the case was not simply dismissed as frivolous without bearing on future law and precedent. Rather, the Court used this case to define an extremely important issue regarding the requirement for approval of penalties imposed upon taxpayers.

Since the issuance of the opinion, several scholars and litigators have questioned the correctness of the decision.⁵ Nonetheless, the Tax

1. *Walquist v. Commissioner*, 152 T.C. 61, 61 (2019).

2. *Id.* at 62.

3. See Bob Kamman, *Some Facts About the Walquist Case, Along with Some Nuance*, PROCEDURALLY TAXING (June 20, 2019), <https://procedurallytaxing.com/some-facts-about-the-walquist-case-along-with-some-nuance/> (discussing facts not brought to light in the opinion). These are the types of facts a lawyer representing the Walquists could have brought out in arguing that the IRS had not properly approved the penalty and that this penalty does not meet the statutory language regarding automation. *Id.*

4. *Walquist*, 152 T.C. at 64.

5. See Caleb Smith, *Substantial Understatement Penalties and Supervisory Approval: Big Changes Coming?*, PROCEDURALLY TAXING (May 26, 2021), <https://procedurallytaxing.com/substantial-understatement-penalties-and-supervisory-approval-big-changes-coming/>; Caleb Smith, *Walquist Harms the Poor: Revisiting Supervisory Approval for Accuracy Penalties*, PROCEDURALLY TAXING (May 25, 2021), <https://procedurallytaxing.com/walquist-harms-the-poor-revisiting-supervisory-approval-for-accuracy-penalties/>; see also Kamman, *supra* note 3 (explaining a review of the record details facts not supported by the opinion).

Court has now taken the stance that that the IRS may impose a penalty in a broad group of situations primarily involving low income taxpayers without prior supervisory approval. Other pro se taxpayers, as well as other taxpayers generally, must now try to overturn a precedential opinion rather than make arguments on this issue from a blank slate.

Would the system, as well as the individual taxpayers in this case, have benefited from the taxpayers' opportunity to have experienced counsel make arguments to the Tax Court regarding the exception to the imposition of the penalty based on automation? If the Tax Court had provided the opportunity to hear from experienced counsel in an amicus brief before rendering its precedential opinion, things might have turned out differently. This paper explores Tax Court precedential opinions written in pro se cases in which the Court essentially heard legal arguments from only one side. This paper makes recommendations regarding how the Court could make a slight change to its procedure by requiring the submission of an amicus brief before issuing an opinion in a precedential case involving an unrepresented taxpayer in order to improve the resulting opinion and the overall jurisprudence of the Court.⁶ The change could balance the legal arguments presented, provide the Court with the best opportunity to reach the correct result, and improve the quality of its precedential opinions by examining arguments beyond those the judges and clerks can find on their own.⁷

I. INTRODUCTION

There is an access to justice gap in the United States with respect to civil controversies⁸ that extends to federal tax cases despite the

6. While their proposal differs from the proposal in this paper, Michael Abramowicz and Thomas Colby explore the idea of providing a court with input to assist it in making its decision in their article *Notice-and-Comment Judicial Decisionmaking*. 76 U. CHI. L. REV. 965, 965 (2009). In their article, the authors propose that courts put out opinions for notice and comment. *Id.* at 967. Their article focuses on cases in which both parties are represented and does not explore the issue presented when only one side makes a legal argument. *See id.* at 986–93 Still, their approach provides some similarities to the approach suggested in this article in its effort to assist the court in reaching the best possible decision and in making sure that the court creates appropriate precedent for cases that follow. *Id.* at 971–78.

7. As mentioned at other points in this paper, the authors of this paper do not believe that the Tax Court judges do anything but try to find the right answer as they decide cases involving pro se taxpayers. *See infra* Part VIII. The authors also believe that most of the decisions reached by the Court resolve the cases correctly, for the correct reasons. In writing this paper, the authors do not seek to indict the Court for failures, but to improve the Court, especially for litigants who are not a party to the decision involving pro se taxpayers.

8. *See Access to Justice*, AM. ACAD. ARTS & SCIS.: DAEDALUS, <https://www.amacad.org/daedalus/access-to-justice> (last visited Nov. 15, 2022) (detailing the “national crisis in civil legal services facing poor and low income Americans: from the challenges of providing quality legal assistance to more people, to the social and economic costs of an often unresponsive legal system, to the opportunities for improvement offered by new technologies, professional innovations, and fresh ways of thinking about the crisis.”).

passage of I.R.C. § 7526.⁹ Many scholars and commissions have made proposals addressing the access to justice gap.¹⁰ Federal tax cases often present technical issues, while over 75% of petitioners filing in Tax Court do so pro se.¹¹ Unrepresented taxpayers lack the skill to fully develop legal arguments necessary to present the issues in their case.¹² This puts a heavy burden on the Tax Court to try to reach the right conclusion without the real assistance of the adversary system. Recognizing the difficulties of getting representation for all Tax Court petitioners, this paper suggests a way to address the shortcomings of pro se proceedings in cases that raise issues the Tax Court determines should be resolved through precedential opinions. These cases have importance for represented and unrepresented taxpayers far beyond the individual case before the Court. The proposal is especially important in light of the quantitative and qualitative research presented in the paper. We believe our proposal could be structured in a manner that does not significantly delay the publishing of opinions by the Court

9. In 1998, Section 7526 created a grant program to fund low income taxpayer clinics ("LITC"). See discussion *infra* Part IV (discussing the clinics and the program in more detail). However, the grant program has not eliminated all of the representation problems facing low- and middle-income taxpayers with tax controversies. As discussed below, not all unrepresented taxpayers avail themselves of assistance from an LITC and not all qualify. See *infra* Part IV. *Walquist*, discussed at the outset, provides an example of a situation in which taxpayers may decline assistance from an LITC because they desire to make arguments no LITC would make. See *Walquist*, *supra* note 1, at 62–68. In 2021, the Tax Court decided eight precedential pro se cases, detailed further below, each with their own reason for litigating without representation. See cases cited *infra* note 11.

10. The authors specifically address some of the proposals below in our discussion of civil Gideon. See *infra* Part VII(a).

11. 2021 U.S. TAX CT. CONG. BUDGET JUSTIFICATION 22 (Feb. 2020). In 2021 alone, the Tax Court issued eight precedential opinions in cases in which the taxpayer was unrepresented out of a total of 23 precedential opinions for the year. See Scott St. Amand, *Full Tax Court Opinions, BRIEFLY TAXING*, <https://brieflytaxing.com/tax-opinions/full-opinions/> (last visited Oct. 12, 2022). The precedential opinions were as follows (pro se opinions are marked with an asterisk): *Ramey v. Commissioner of Internal Revenue**; *Adams Challenge (UK) Limited v. Commissioner of Internal Revenue*; *Grajales v. Commissioner of Internal Revenue*; *Wellness v. Commissioner of Internal Revenue*; *Beland v. Commissioner of Internal Revenue*; *McCrary v. Commissioner of Internal Revenue**; *Mainstay Business Solutions v. Commissioner of Internal Revenue*; *Rowen v. Commissioner of Internal Revenue*; *De Los Santos v. Commissioner of Internal Revenue*; *Mylan, Inc. & Subsidiaries v. Commissioner of Internal Revenue*; *Stein v. Commissioner of Internal Revenue*; *Hussey v. Commissioner of Internal Revenue*; *Garcia v. Commissioner of Internal Revenue**; *Belair v. Commissioner of Internal Revenue**; *Rogers v. Commissioner of Internal Revenue**; *Toulouse v. Commissioner of Internal Revenue*; *Lissack v. Commissioner of Internal Revenue*; *Vera v. Commissioner of Internal Revenue**; *Leyh v. Commissioner of Internal Revenue**; *Insinga v. Commissioner of Internal Revenue*; *Ruhaak v. Commissioner of Internal Revenue**; *McNulty v. Commissioner of Internal Revenue*; *Sand Investment Co., LLC v. Commissioner of Internal Revenue*; *Coggin v. Commissioner of Internal Revenue*. See *id.*

12. See David I. Walker, *Tax Complexity and Technology*, 97 IND. L. J. 1095, 1136–40 (2022) (detailing the increasing complexity of the tax code and the need for government solutions to assist low income taxpayers in understanding the resources available to them, particularly through the use of technology); see also Leandra Lederman & Warren B. Hrungr, *Do Attorneys Do Their Clients Justice? An Empirical Study of Lawyers' Effects on Tax Court Litigation Outcomes*, 41 WAKE FOREST L. REV. 1235, 1281 (2006) (finding that in the Tax Court, the presence of an attorney for the taxpayer significantly improved the taxpayer's financial outcome in tried cases, an effect that increased with the experience of the attorney).

and could be met with existing resources in clinics and the tax bar generally.

The United States Tax Court occupies a distinctive position in the federal judiciary. Borne from legislation in 1924¹³ that created the Board of Tax Appeals, it spent its first 45 years essentially as an administrative agency tribunal housed for most of that time in the same building as the IRS national headquarters. In 1969, Congress transformed the Tax Court into an Article I Court in the federal court system.¹⁴ The Court has nationwide jurisdiction designed to promote uniformity in federal tax results across the United States. It consists of 19 presidentially appointed judges who typically travel nationwide to conduct trials.¹⁵ In addition to the presidentially appointed judges, the Court has authority to hire special trial judges, the functional equivalent of magistrate judges, to assist in deciding cases and administration.¹⁶ The Tax Court serves as the primary court for challenges to IRS determinations.¹⁷ It plays an especially important role because it exists to allow taxpayers to contest their alleged liability without having to prepay the liability.¹⁸ Because of its ability to hear prepayment contests, the overwhelming majority of tax litigation occurs in the Tax Court.¹⁹

Given its distinctive nature, the Tax Court hears cases that fundamentally develop tax jurisprudence and that have wide-ranging

13. *Records of the U.S. Tax Court*, NAT'L ARCHIVES, <https://www.archives.gov/research/guide-fed-records/groups/308.html> (last visited Apr. 11, 2022).

14. *Tax Court*, BRITANNICA, <https://www.britannica.com/topic/Tax-Court> (last visited Mar. 20, 2022).

15. HAROLD DUBROFF & BRANT J. HELLWIG, U.S. TAX CT., *THE UNITED STATES TAX COURT: AN HISTORICAL ANALYSIS* 769 (2nd rev. ed. 2014).

16. *Id.* at 829–31.

17. *See* 2021 I.R.S., NAT'L TAXPAYER ADVOC. ANN. REP. TO CONG. 190 [hereinafter 2021 NAT'L TAXPAYER ADVOCATE REPORT].

18. *See id.* at 190.

19. *See id.* The percentage of tax litigation occurring in the Tax Court depends on how you count certain types of cases. In 2021, 98% of all tax litigation occurred in the Tax Court. *Id.* Author Keith Fogg notes that when he began at the Office of the Chief Counsel of the Internal Revenue Service in the 1970s, there were over 1,000 refund suits per year. Keith Fogg, *Information from Court Practice and Procedure Programming at ABA Tax Section Meeting Part 2*, PROCEDURALLY TAXING (May 26, 2022), <https://procedurallytaxing.com/information-from-court-practice-and-procedure-programming-at-aba-tax-section-meeting-part-2/>. However, the number of refund cases filed each year in the Federal Court of Claims or district courts have dwindled to less than 300 per year, notwithstanding the pandemic. *See id.* A small number of taxpayers seek to litigate the merits of their liability in bankruptcy court. *See* 2021 NAT'L TAXPAYER ADVOCATE REPORT, *supra* note 17, at 190. A few hundred collection suits are brought along with summons enforcement cases and miscellaneous suits. *See id.* at 189, 193–94. To highlight the impact of COVID-19 on cases filed in the Tax Court, *compare* 2021 U.S. TAX CT. CONG. BUDGET JUSTIFICATION, 23 (finding the cases filed in the Tax Court have averaged about 28,000 a year over the last decade), *with* 2022 U.S. TAX CT. CONG. BUDGET JUSTIFICATION 21 (citing the number of cases filed in the Tax Court for fiscal year 2020 was only 16,988). *But see* Press Release, United States Tax Court (Dec. 9, 2021), <https://www.ustaxcourt.gov/resources/press/12092021.pdf> (noting that there has been a significant increase in the number of petitions received in the Tax Court in 2021, totaling 33,300 petitions as of November 30, 2021).

precedential consequences across the entire country. For a court with such an impact on jurisprudence, it has another uncommon feature: over 75% of its petitioners are pro se litigants.²⁰ With such a large percentage of pro se litigants, its jurisprudence forms, in many instances, from litigation in which one of the parties lacks the ability to present well-developed arguments. This paper studies the impact of precedent developed in pro se cases. We treat as precedential those cases that the Tax Court designates as such; however, as discussed further below, some cases the Tax Court does not designate as precedential clearly have that impact. A discussion of those cases is beyond the scope of this paper, but the designation of cases as precedential creates an issue lurking in the background of the issue addressed by this paper.

The substance of the paper begins in Part II with an overview of the processes used for deciding Tax Court cases and for determining which cases will receive precedential treatment. In Part III, we discuss pro se taxpayers generally, including statistics regarding pro se taxpayers in all federal appeals courts and in the Tax Court specifically. This section also borrows from existing literature to show the benefit of counsel in Tax Court cases that are litigated. Part III also includes a chart showing the total number of precedential cases and the total number of pro se precedential cases decided by the Tax Court since it became an Article I court. Part IV discusses Low Income Taxpayer Clinics and their role in representing pro se taxpayers before the Tax Court. This Part also includes a discussion of several decisions of the Tax Court in pro se cases that have shaped the legal landscape, as well as a discussion of some cases in which a low-income taxpayer received representation. Part V discusses some of the important pro se precedential opinions like the *Walquist* opinion discussed in the opening of the paper. Part VI discusses the practice of certain courts which have set up pro bono panels or that seek out an amicus brief in situations in which such a brief might assist the tribunal, to see if a model exists that might be available for the Tax Court to use. It also discusses the broader trends in the use of amicus briefs in the United States. Part VII discusses our recommendation regarding how the Tax Court should adjust its current practice to utilize assistance from clinics or bar panels to obtain input on the legal issues presented in those pro se cases in which the Court intends or may intend to render a precedential opinion. The conclusion follows Part VII. We conclude that in precedential decisions used to shape the legal landscape for tax, the process would improve if the Tax Court required, at the very least, an amicus brief in support of a pro se petitioner's position once it has decided a case has precedential potential.

20. 2021 U.S. TAX CT. CONG. BUDGET JUSTIFICATION 22.

II. THE U.S. TAX COURT PROCESS

A. *The Court Process*

Generally, a case in the U.S. Tax Court begins with the filing of a petition in response to an IRS notice.²¹ This petition is filed against the “respondent,” who is always the Commissioner of the Internal Revenue Service.²² Back when the Tax Court was the Board of Tax Appeals, the name of the respondent could also be the name of the Commissioner himself.²³ Most cases stem from the receipt of a notice of deficiency, a notice of determination, or a notice of certification.²⁴ Filing a Tax Court petition costs \$60, though the Court waives the fee in certain circumstances.²⁵ For this relatively low price, the taxpayer enjoys postponement of the obligation to pay the amount in dispute while a case is pending.²⁶ A petitioner then chooses the most convenient location for them (from 74 cities currently) for trial.²⁷ The petitioner must then navigate the procedural aspects of the case, from understanding the IRS’s answer to actually trying the case. Taxpayers

21. *Guidance for Petitioners: Starting a Case*, U.S. TAX CT., https://www.ustaxcourt.gov/petitioners_start.html#START1 (last visited Mar. 20, 2022).

22. *Id.*

23. During the period of the Board of Tax Appeals, all of the individuals appointed as Commissioner were male. *See Previous IRS Commissioners*, I.R.S., <https://www.irs.gov/newsroom/previous-irs-commissioners> (Nov. 15, 2022). Accordingly, the style of a case would be Smith vs. Helvering. Because Guy Helvering served as Commissioner for 10 years during the last years of the Board of Tax Appeals when cases had picked up, his name comes up most frequently when looking at cases from that era. *See e.g.*, *Smith v. Helvering*, 141 F.2d 529 (1944).

24. *See Guidance for Petitioners: Starting a Case*, *supra* note 21. The vast majority of Tax Court cases result from the sending of a notice of deficiency alerting the taxpayer that the IRS has determined the taxpayer owes additional tax; however, Congress had added numerous other bases for Tax Court jurisdiction. *See* 2021 NAT’L TAXPAYER ADVOCATE REPORT, *supra* note 17, at 183, 190. Most of the non-deficiency bases for jurisdiction arrive at the Tax Court after a notice of determination. For example, innocent spouse cases and collection due process cases. *See id.*, at 187; *Letter 3193, Notice of Determination Concerning Collection Actions Under Sections 6320 and 6330 of the Internal Revenue Code*, I.R.S., TAXPAYER ADVOCATE SERV. (Mar. 28, 2022), <https://www.taxpayeradvocate.irs.gov/notices/letter-3193/>. A notice of certification leads to Tax Court jurisdiction in the review of proposed passport revocation. *See* Justin Hughes, *Tax Court Dismisses Challenge to IRS Certification of Seriously Delinquent Debt as Moot*, HUGHES TAX L. (Feb. 23, 2021), <https://hughesaxlaw.com/tax-court-dismisses-challenge-to-irs-certification-of-seriously-delinquent-tax-debt-as-moot/>.

25. *See Information About Filing a Case in the United States Tax Court*, U.S. TAX CT., <https://www.ustaxcourt.gov/resources/forms/PetitionSimplifiedForm2.pdf> (last visited Mar. 26, 2022); *see also Application for Waiver of Filing Fee*, U.S. TAX CT., https://www.ustaxcourt.gov/resources/forms/ApplicationforWaiverofFiling_Fee.pdf (last visited Mar. 26, 2022).

26. Compare the cost of filing a petition in the Tax Court with the U.S. district court filing fee in 28 U.S.C. § 1914, which establishes a petition filing fee of \$350, plus other “additional fees only as are prescribed by the Judicial Conference of the United States.” 28 U.S.C. § 1914.

27. *Places of Trial*, U.S. TAX CT., https://www.ustaxcourt.gov/dpt_cities.html (last visited Mar. 20, 2022).

can become confused by these procedures, as the IRS answer typically contains numerous statements of denial of the specific allegations in the petition. Often, taxpayers will interpret this as meaning their claim is being rejected, or that it is not allowed in court.²⁸ While materials are available online to help the taxpayer through this process, there is a steep learning curve for a petitioner without representation.

B. What is Precedential?

Broadly speaking, the court issues two types of opinions:²⁹ (1) formal, published opinions (“Division” opinions or “T.C.” opinions); and (2) unpublished opinions. Formal opinions come in two types: (1) division opinions—the opinion of one judge of the Tax Court which the Chief Judge has deemed precedential; and (2) fully reviewed opinions—opinions in which all presidentially appointed judges not on senior status participate in the decision, similar to an *en banc* decision of a federal circuit court. The unpublished opinions are split into three types: (1) memorandum opinions (“memo opinions” or “T.C. Memos”); (2) summary opinions;³⁰ and (3) orders.³¹ Published opinions are undeniably precedential. Because the Court itself designates these opinions as precedential at that time of publication, they provide the foremost precedent for subsequent litigants arguing the same or similar issue. Summary opinions and orders do not create precedent, but these opinions may provide persuasive authority in the right circumstance.³²

Memorandum opinions are technically not precedential; however, in substance they are often treated the same as precedential “T.C.”

28. Daniel L. Pilla, *Tax Court Trouble-Shooting Guide*, TAX FREEDOM INST., <https://www.taxfreedominstitute.com/tax-court-trouble-shooting-guide-troublespot-1.html> (last visited April 1, 2022).

29. See Mary Ann Cohen, *How to Read Tax Court Opinions*, 1 HOUS. BUS. & TAX L. J. 1, 7 (2001); see also DUBROFF & HELLWIG, *supra* note 15 at 753.

30. In summary opinions, the petitioner elects to designate the opinion as non-precedential. See Andrew Roberson & Kevin Spencer, *Types of Tax Court Opinions and Their Precedential Effect*, TAX CONTROVERSY 360 (Oct. 13, 2016), <https://www.taxcontroversy360.com/2016/10/types-of-tax-court-opinions-and-their-precedential-effect>. However, in certain cases the Tax Court has *sua sponte* removed the summary designation to create precedent, though this is rare. *Skaggs v. Commissioner*, No. 15944-16 (T.C. Apr. 25, 2017) (order removing the small tax case designation from the case).

31. Roberson & Spencer, *supra* note 30; see also Cohen, *supra* note 29, at 5.

32. I.R.C. § 7463(b) (“A decision entered in any case in which the proceedings are conducted under this section shall not be reviewed in any other court and shall not be treated as a precedent for any other case.”); see also Amandeep S. Grewal, *The Un-Precedented Tax Court*, 101 IOWA L. REV. 2065, 2096, 2101 (2016); T.C. R. 50(f) provides that, “[o]rders shall not be treated as precedent, except as may be relevant for purposes of establishing the law of the case, *res judicata*, collateral estoppel, or other similar doctrine.” No express rule prohibits the citation to summary opinions or to orders. Issues never previously addressed by the Tax Court in an opinion, but discussed in a summary opinion or an order, may be brought to the Court’s attention by citation to one of these non-precedential rulings for whatever value they might provide. See Grewal, *supra*, at 2088–90.

opinions.³³ The Court will treat the opinion of a presidentially appointed judge in a regular case as a memorandum opinion if the Chief Judge and his or her staff determine that the opinion covers a routine matter or an issue already addressed by a precedential opinion.³⁴ It is notable that in the past two decades the Court has issued approximately nine memorandum opinions for each formal, precedential opinion.³⁵

The Tax Court decides which of its opinions are precedential, a practice that scholars have argued raise practical and constitutional concerns.³⁶ Scholar Amandeep Grewal explores the debate in his article, “The Un-Precedented Tax Court.” Grewal points out that the constitutional necessity of *stare decisis* may be interpreted to mean that the Tax Court’s practice of choosing which of its opinions are binding upon the court may be unconstitutional. According to Grewal, while memorandum opinions are supposedly used for more “clear-cut” or “heavily factual” cases, swaths of these opinions deal with hotly debated subjects.³⁷ To make matters more complicated, appellate courts are split on their treatment of memorandum opinions, with some circuits treating them the same as Division or T.C. opinions, and others explicitly ignoring memorandum opinions as precedent.³⁸

Given that the Court has issued so few precedential opinions in the past two decades and that the Court itself recognizes their importance by implementing a particular procedural process for establishing precedent, one could question whether the Tax Court should choose cases to be precedential when the case involves a pro se petitioner. Precedential opinions are “those in which a legal issue of first impression is decided, a legal principle is applied or extended to a recurring factual pattern, a significant exception to a previously announced general rule is created, or there are similarly significant and precedentially valuable cases.”³⁹ In other words, they are by far and away the most important cases that the Tax Court sees from a tax law perspective. Important to the recommendation of this article, the Tax Court has no fixed time by which a judge must issue an opinion,⁴⁰ and it can take up to a year (or longer).⁴¹ This wait time is extended for

33. Grewal, *supra* note 32, at 2073–79.

34. DUBROFF & HELLWIG, *supra* note 15, at 753–54.

35. Roberson & Spencer, *supra* note 30.

36. Grewal, *supra* note 32, at 2066–67.

37. *Id.*; see also *Campbell v. Commissioner*, 59 T.C.M. (CCH) 236 (T.C. 1990); *Helmer v. Commissioner*, 34 T.C.M. (CCH) 727 (T.C. 1975).

38. Grewal, *supra* note 32, at 2076.

39. Cohen, *supra* note 29, at 7.

40. *Guidance for Petitioners: Things That Occur After Trial*, U.S. TAX CT., https://www.ustaxcourt.gov/petitioners_after.html (last visited Mar. 21, 2022).

41. Walker, Steven, *What happens in U.S. Tax Court?*, L. OFFS. STEVEN L. WALKER: A PRO. L. CORP., <https://walk-law.com/us-tax-court/> (last visited Mar. 21, 2022). Based on the Authors’ experiences, some Tax Court opinions take five years or more from the time of the petition to the

precedential opinions, as they must work their way through the approvals process within the Court.⁴²

The role of precedent holds a particularly important place in American jurisprudence generally and Tax Court jurisprudence specifically, explaining, in part, why the Tax Court puts much effort into choosing precedential cases. Precedent provides many benefits including “predictability, equality, judicial restraint, credibility, and judicial efficiency.”⁴³ William Landes and Richard Posner describe precedent as a public good.⁴⁴ In an article that shows how repeat players can shape precedent, Professor Lederman discusses the competing goals of creating meaningful precedent for future litigants and the benefits of resolving individual cases without trials and opinions.⁴⁵ Professor Tahk writes about the importance of precedent for its spillover impact on low income taxpayers, with a focus on how, at times, well represented taxpayers may create positive precedent for pro se litigants.⁴⁶ Her article tracks many of the same concerns regarding the impact of precedent discussed in this article even though she views the effect of precedent through a different lens. Her research will be discussed in more detail later in this article. Unfortunately, the same beneficial spillover effect that she identifies can have a negative impact as well if the precedent is bad. This paper is concerned with possible bad precedent when the Court must decide a case without the benefit of an adversarial contest where both parties face off as legal equals, providing the Court with reasoned arguments from which to start the decision-making.

time of the opinion. The time it takes for the Court to publish an opinion varies significantly from judge to judge. Some judges render most opinions with one year or less after a trial. Other judges struggle more to produce opinions. While it does not always break down this way, the judges who spent their pre-Court career working on Capitol Hill tend to take longer to produce their opinions. The time difference between judges who practiced law and those who formulated legislation does not seem surprising.

42. Each opinion goes to the office of the Chief Judge prior to issuance per sections 7459 and 7460. Attorneys in that office review every opinion in a regular case and make a recommendation to the Chief Judge regarding which opinions the Court should designate as precedential. Cohen, *supra* note 29, at 5 nn.21–22, 26.

43. Susannah Tahk, *Spillover Tax Precedent*, 2021 WIS. L. REV. 658, 672 (2021). Professor Tahk also notes that precedential decisions have positive effects beyond the case decided. *Id.* at 672–73 (citing Catherine Albiston, *The Rule of Law and the Litigation Process: The Paradox of Losing by Winning*, 33 L. & SOC’Y REV. 869, 905 (1999)).

44. See William M. Landes & Richard Posner, *Legal Precedent: A Theoretical and Empirical Analysis*, 19 J. L. & ECON. 249, 249–52 (1976).

45. Leandra Lederman, *Precedent Lost: Why Encourage Settlement, and Why Permit Non-Party Involvement in Settlements*, 75 NOTRE DAME L. REV. 221, 221–22 (1999).

46. In the introduction to her article, Professor Tahk discusses the case of a taxpayer who benefited from the well represented case of *Graev v. Commissioner*, 140 T.C. 377 (2013), *rev’d*, 149 T.C. 485 (2017). There is no doubt that many pro se litigants, and others, benefited from the well-argued *Graev* case. Conversely, many pro se litigants, and others, were harmed by the poorly argued *Walquist* case discussed in the opening. See discussion *supra* Part I. The suggestion of this paper will not create perfect outcomes but seeks to reduce the impact of precedent in situations ripe for inadequate presentation. Tahk, *supra* note 43, at 13.

Of the 194 cases that have been decided by the Tax Court during the twelve-month period between January 2020 and January 2021,⁴⁷ only twenty (or 10.3%) were designated precedential Tax Court opinions. The Tax Court issued 22 opinions during that period as summary opinions (11.3%), and the remaining 152 were designated as memorandum opinions (78%). This leaves a large gap for taxpayers looking for precedent on a case they might bring forth. Appendix Table 4 lists the number of precedential opinions by year since the Tax Court became an Article I court in 1969. Appendix Table 5 lists each of the precedential opinions by year regarding pro se taxpayers since 1969. The relatively small number of cases issued that the Tax Court designates as precedential in recent decades makes those published as Tax Court opinions that much more impactful for future jurisprudence.

III. PRO SE TAXPAYERS

A. *Pro Se Taxpayers Generally*

Taxpayers choose to represent themselves “pro se” in Tax Court for a variety of reasons, almost all of which are driven by cost. Some petitioners lack the financial resources to hire counsel, while others who possess the resources may have a dispute that does not justify the cost of counsel. The percentage of pro se taxpayers in Tax Court is much higher than the number of pro se cases across many federal courts.⁴⁸ The national average for attorney’s fees is approximately \$225 per hour, a high burden for most.⁴⁹ Even given the wide acknowledgement of this burden, “over the past 20 years the amount provided by the federal government to support legal services for the poor has declined by a third.”⁵⁰ This has led to a situation where “four out of five poor people cannot get their legal needs met,” and similarly “three out of five members of the middle class” are unable to get the legal assistance they need.⁵¹ While there is free legal help available, including a variety of Low Income Tax Clinics (which we will explore later), these resources only exist for some unrepresented taxpayers who fall under 250% of the

47. This number is lower than it usually would be due to the shuttering of the Tax Court as a result of the COVID-19 pandemic. The Tax Court was not in session for many months of the 2020 calendar year, and trials resumed in August of 2020.

48. 2021 U.S. TAX CT., CONG. BUDGET JUSTIFICATION 22 (Feb. 2020).

49. *How Much Are Attorney Fees?*, THERVO, <https://thervo.com/costs/attorney-fees> (last visited Apr. 1, 2021).

50. Stephan Landsman, *The Growing Challenge of Pro Se Litigation*, 13 LEWIS & CLARK L. REV. 439, 444 (2009).

51. *Id.*

poverty line, yet some may not appreciate their availability and usefulness.⁵²

On average, approximately 50% of federal cases in Federal Courts of Appeals involve a pro se petitioner.⁵³ The charts below reflect this data over the last decade. The top two lines represent the total number of cases commenced and total number terminated, whereas the bottom two lines show the total number of cases that were pro se at filing and those that were pro se at termination.⁵⁴

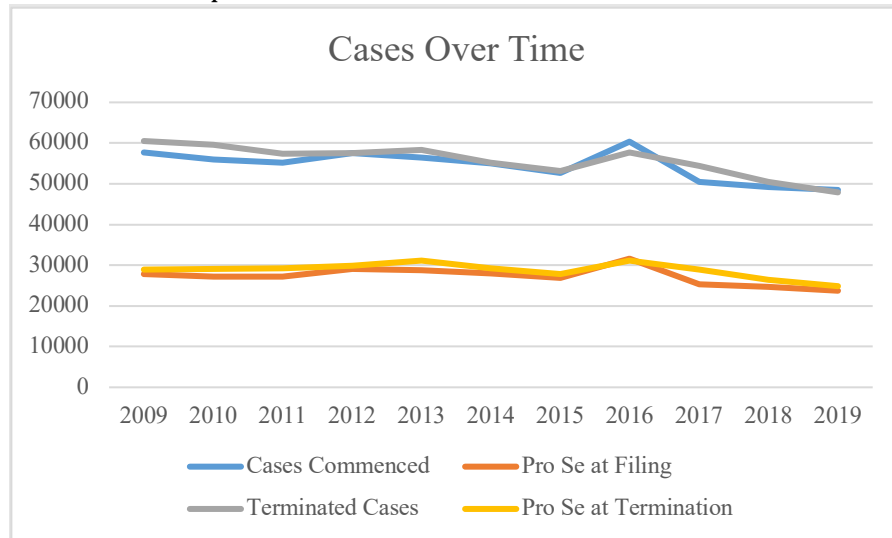


Figure 1. Total Cases Commenced and Terminated from 2009-2019 and Total Cases Where Petitioner was Pro Se at Commencement and Termination

As is evident from the above graph, approximately half of cases both at termination and at commencement are pro se. The total number of cases generally have trended downward, but the ratio of pro se cases to overall cases has stayed relatively stable. The following graph shows these percentages, ranging from 48% to 54%, with no clear trend.

52. I.R.C. § 7526 (setting out the statutory structure for clinical representation). *See also Low Income Taxpayer Clinics (LITC)*, TAXPAYER ADVOC. SERV., <https://www.taxpayeradvocate.irs.gov/about-us/low-income-taxpayer-clinics-litc/> (last visited Mar. 25, 2022) [describing low income taxpayer clinics generally]; *LOW INCOME TAXPAYER CLINICS, I.R.S., 2021 PROGRAM REP. 1, 4* [hereinafter 2021 LITC REPORT] (illustrating the activities of low income taxpayer clinics).

53. This data may be skewed as a result of pro se prisoner cases.

54. The data was collected from uscourts.gov, and it includes all of the U.S. Federal Courts of Appeals except for the Federal Circuit.

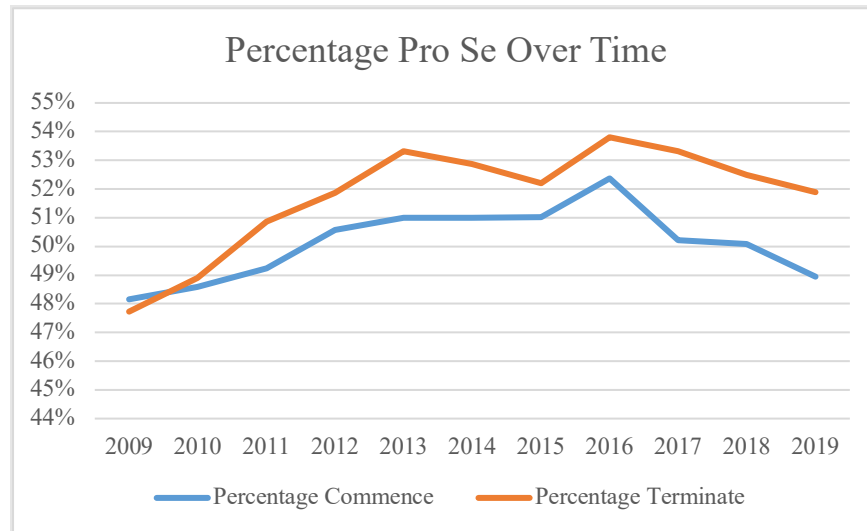


Figure 2. Percentage of Cases Where Petitioner was Pro Se at Commencement and Termination From 2009-2019

As is to be expected, the percentage of cases that commence pro se is lower than those that terminate pro se. This is evidence that while petitioners may choose to begin the process with counsel, they may depart from the usage of counsel throughout the process.

B. *Pro Se Taxpayers in the Tax Court*

Pro se taxpayers in Tax Court represent more than individuals who qualify for LITCs because even well-heeled taxpayers may find that the cost of hiring an attorney exceeds the amount at issue. However, the amount of tax at issue in a Tax Court case does not easily correlate to the importance of a case. Cases have gone to the Supreme Court with only a few hundred dollars at issue.⁵⁵ Even if a wealthy or middle-class taxpayer has an issue to litigate but the amount in dispute in their case involves only a few thousand dollars, the wealthy taxpayer may elect to pursue the case pro se because the cost of representation would exceed the amount of tax at issue. Presently, in small dollar disputes, low income taxpayers may have a better chance for representation than taxpayers whose income excludes them from LITC representation.

While pro se petitioners exist in other parts of the federal court system, their percentage is outsized in the Tax Court.⁵⁶ In her detailed analysis of pro se litigation, Erin M. Collins, the National Taxpayer Advocate, provides statistics that show a higher percentage of pro se

55. *See, e.g.,* United States v. Nat'l Bank of Com., 472 U.S. 713, 716 (1985) (presiding over a levy case where the amount at issue was only \$856.61).

56. 2021 U.S. TAX CT., CONG. BUDGET JUSTIFICATION 22 (Feb. 2020).

cases in the Tax Court than in the Federal Courts of Appeals (excluding the Federal Circuit).⁵⁷

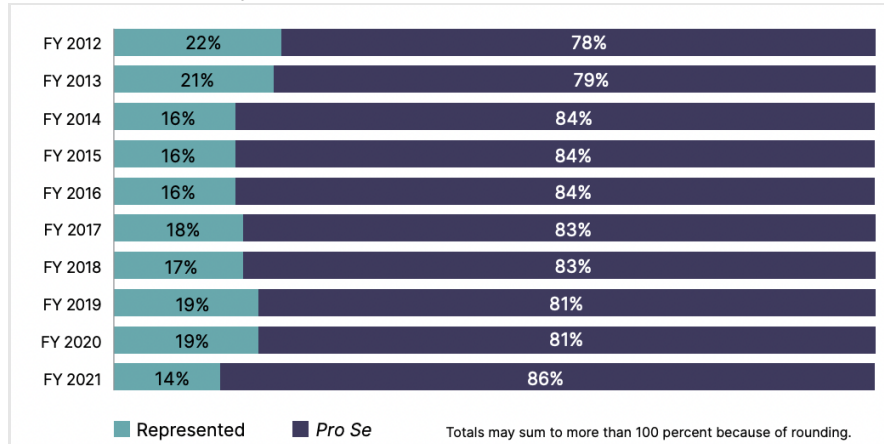


Figure 3. Percentage of Cases Petitioned to the Tax Court (Represented/Pro Se), FYs 2012-2021⁵⁸

From 2018 through 2020, pro se petitioners took 137 cases to trial and opinion. The breakdown of these cases is relatively similar to the breakdown of Tax Court cases overall: 65.0% are memorandum opinion cases, 32.1% are summary opinion cases, and 2.9% are published “T.C.” opinions. This means that 2.9% (or four cases) argued by pro se petitioners over the three-year period resulted in a precedential opinion.

i. Analysis of Precedential Tax Court Cases

To get a better idea of how often cases that form Tax Court precedent are actually argued pro se, we gathered a different data set. We took the top 100 most cited cases from the last thirty years (beginning January 1, 1990) and broke down the data into pro se and represented cases. The number of citations a case receives is a metric produced by Westlaw, and includes both case references and other sources, like articles or law reviews. The number of citations overall strongly correlates to the number of subsequent case citations, as seen below.

57. Compare 2021 NAT’L TAXPAYER ADVOCATE REPORT, *supra* note 17, at 194–96, with *supra* Part III(a).

58. 2021 NAT’L TAXPAYER ADVOCATE REPORT, *supra* note 17, 195 fig.3.11.

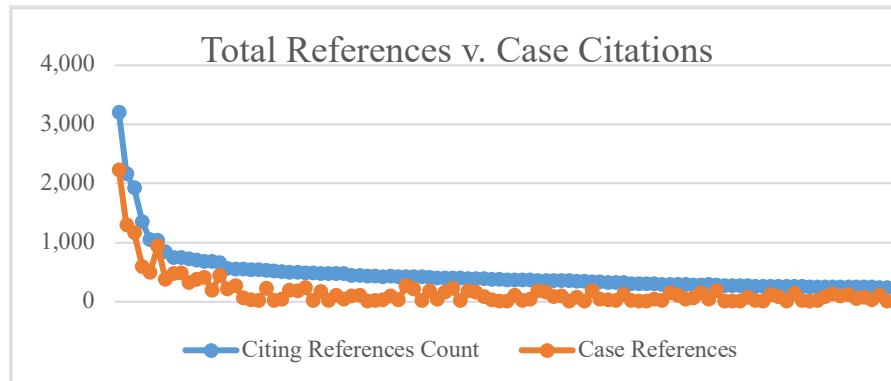


Figure 4. Total References and Case References for the Top 100 Most Cited Tax Court Cases from 1990-2020

The total number of citations for a single case ranges from 239 cites all the way to 3,204 cites, and the subsequent case citations range from three all the way to 2,229. As to be expected, there are no summary opinions in this list. However, there are 17 memorandum opinions. This reinforces the notion that some judges cite memorandum opinions as precedent.⁵⁹ The chart below shows the 17 cases, the number of total references, and case citations for each. In general, the case citations tend to be lower than the official, published opinions, but they are still substantial.

Table 1. Cases Resulting in Memorandum Opinions from the Top 100 Most Cited Tax Court Cases from 1990-2020

Title	Filed Date	Citation	Total Cites	Case Cites
Estate of Strangi v. C.I.R.	20-May-03	T.C. Memo. 2003-145	538	25
ACM Partnership v. C.I.R.	5-Mar-97	T.C. Memo. 1997-115	506	42
Mandelbaum v. C.I.R.	12-Jun-95	T.C. Memo. 1995-255	469	45
Estate of Murphy v. C. I. R.	30-Aug-90	T.C. Memo. 1990-472	415	14
Estate of Thompson v. C.I.R.	26-Sep-02	T.C. Memo. 2002-246	380	26
Estate of Schauerhamer v. C.I.R.	28-May-97	T.C. Memo. 1997-242	350	12
LeFrak v. C.I.R.	16-Nov-93	T.C. Memo. 1993-526	345	12
Estate of Stone v. C.I.R.	7-Nov-03	T.C. Memo. 2003-309	321	23
Kohler v. C.I.R.	25-Jul-06	T.C. Memo. 2006-152	273	6
Estate of Nowell v. C.I.R.	26-Jan-99	T.C. Memo. 1999-15	267	5
Salina Partnership LP v. C.I.R.	14-Nov-00	T.C. Memo. 2000-352	262	21
Estate of McLendon v. C.I.R.	30-Sep-93	T.C. Memo. 1993-459	258	5
Estate of Lauder v. C.I.R.	30-Dec-92	T.C. Memo. 1992-736	254	16
Estate of Frank v. C.I.R.	28-Mar-95	T.C. Memo. 1995-132	251	7

59. Because some memorandum opinions effectively set precedent, the focus of this paper on formal precedential opinions fails to capture all of the situations in which a Tax Court opinion in a pro se case impacts tax law jurisprudence. If the Tax Court adopts the recommendation of this paper, it might also consider designating more cases as precedential to trigger the amicus brief process or extend the process to cases that might not end up as precedential. Of course, the possibility exists that obtaining an amicus brief could change the way the court looks at the precedential impact of a case.

Estate of True v. C.I.R.	6-Jul-01	T.C. Memo. 2001-167	249	16
River City Ranches No. 1 Ltd. v. C.I.R.	23-May-03	T.C. Memo. 2003-150	251	31
Williams v. C.I.R.	12-Feb-98	T.C. Memo. 1998-59	239	6

In the full data set, we have broken out the cases by pro se and represented. We have also indicated whether the taxpayer won the case, whether the IRS won, or whether the decision split in part for the plaintiff and the IRS or if the Court remanded the case (a possibility in Collection Due Process cases). The statistics set out below provide this information.

Table 2. Breakdown of Pro Se and Represented Taxpayers From the Top 100 Most Cited Tax Court Cases of 1990-2020

Label	Number	Percentage
Total Cases	100	
Pro Se	21	21%
Represented	78	78%
Partially Represented	1	1%
Pro Se TP Wins	1	5%
Pro Se In Part	1	5%
Pro Se TP Losses	17	81%
Pro Se Remand	2	10%
Represented TP Wins	15	19%
Represented In Part	36	46%
Represented TP Losses	26	33%
Represented Remand	1	1%
Total TP Wins	16	16%
Total In Part	37	37%
Total TP Losses	44	44%
Total Remand	3	3%

There are a few items to note. First, the number of taxpayers in this data set who are pro se is only 21%, which is significantly less than the average level of 75–80%. A large majority of pro se petitioners (as with all petitioners) settle out of court, but the court dismisses more pro se petitioners for lack of jurisdiction or lack of prosecution. Far more pro se than represented petitioners have their cases dismissed prior to decision by one of these pre-trial outcomes.⁶⁰ As a consequence, even though pro se petitioners far outnumber represented petitioners at the

60. See Keith Fogg, *The Melt – Cases That Drop Away in Tax Court*, PROCEDURALLY TAXING (Jan. 31, 2022), <https://procedurallytaxing.com/the-melt-cases-that-drop-away-in-tax-court/>.

point of the filing of a petition, far fewer pro se petitions result in an opinion.

The most important piece of information revealed by the data of the “most precedential” cases is the number of times the taxpayer wins their case. Overall, of these cases, the taxpayer won their case (with no in-part judgment for the IRS and no compromise) 16% of the time. When represented by counsel, the taxpayer wins 19% of the time. When the taxpayer represents themselves, they win only 5% of the time. It is also important to look at the IRS wins, as there is a gray area when it comes to the “in part” opinions. The IRS won the full case 44% of the time overall. When the taxpayer is represented, the IRS won only 33% of the time. Finally, in pro se cases, the IRS won 81% of the time. The data shows a stark contrast to the outcomes in represented cases and shows that not only does the IRS outperform when the taxpayer is pro se, but the wins are clearer cut, with very few judgments classified as “in part.” The statistics displayed here mirror earlier research on this subject.⁶¹ The numbers for remand across all categories are negligible, and there is no substantive difference between the sectors of data.

To round out the data on precedential and pro se precedential cases, we tabulated every precedential opinion issued by the Tax Court since becoming an Article 1 court in 1969. That tabulation is included as Table 4 of the Appendix. If you look at that table, you will see a sharp drop off of precedential opinions from the first two decades after the Tax Court became an Article 1 court compared to the last two decades. We also tabulated all of the pro se precedential opinions issued by the court from the time it became an Article 1 court through 2018 and these cases are displayed by name in Table 5. As with precedential opinions, as a whole, there has been a significant drop off in cases in the pro se precedential opinions decided last two decades compared to the early years of the court, but pro se precedential opinions still make up a significant percentage of the total number of precedential opinions in most years.

IV. LOW INCOME TAX CLINICS AND BAR PROGRAMS

Low Income Taxpayer Clinics, or “LITCs,” primarily assist low income persons who have tax disputes with the IRS.⁶² Though they receive funding from the IRS, LITCs are independent of the Service.⁶³ In 2020, the LITC program represented 20,259 U.S. taxpayers in various types of tax controversies and provided 15,802 taxpayers with

61. See *infra* notes 223–24 and accompanying text.

62. *Low Income Taxpayer Clinics (LITC)*, *supra* note 52.

63. *Id.*

consultation or advice.⁶⁴ There are currently 131 LITCs across 45 states and the District of Columbia.⁶⁵

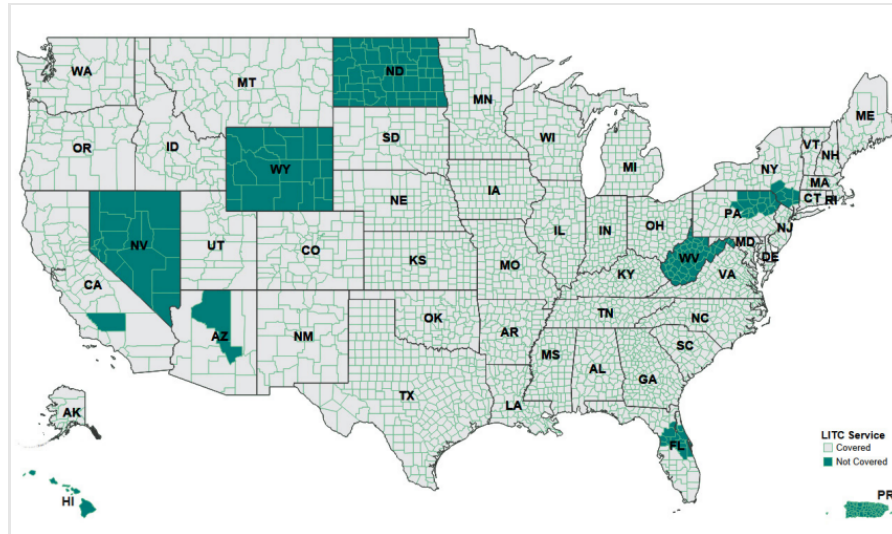


Figure 5. 2020 LITC Coverage by County⁶⁶

In 2019, the LITC program gave over \$11 million to the LITCs, with the maximum grant set at \$100,000.⁶⁷ In the same year, over 1,555 volunteers gave 52,564 hours to LITCs.⁶⁸ 857 of these volunteers were licensed attorneys.⁶⁹

A. LITCs and Pro Se Petitioners

LITCs are prolific in their representation of low income taxpayers who have tax controversies, and most cases that LITCs work on involve collection, refund, and status issues.⁷⁰ In 2019, over nine percent of all LITC cases involved litigation.⁷¹ In their 2020 report on Low Income Tax Clinics, the IRS noted that a “represented taxpayer is nearly twice as likely to receive a positive outcome as an unrepresented taxpayer in a dispute with the IRS” in both administrative proceedings and in disputes in front of the Tax Court.⁷² Unsurprisingly, however, cost remains a large issue. There is room for future research to survey the income

64. LOW INCOME TAXPAYER CLINICS, I.R.S., 2020 PROGRAM REP. 4 [hereinafter 2020 LITC REPORT]. This report is published annually allowing anyone interested in statistics and stories about LITCs to follow their work across the years since the report was first published in 2014. See also 2021 LITC REPORT, *supra* note 52, at 4.

65. 2021 LITC REPORT, *supra* note 52, at 4.

66. 2020 LITC REPORT, *supra* note 64, at 8 fig.1.

67. 2020 LITC REPORT, *supra* note 63, at 4.

68. *Id.* at 13.

69. *Id.* at 15.

70. See *id.* at 17.

71. *Id.* at 23.

72. 2021 LITC REPORT, *supra* note 52, at 16.

levels of petitioners who end up pursuing cases in the Tax Court pro se, but as of now, small-scale studies on the justice gap for low income individuals prove illustrative: in 2005, a study of pro se litigants in New York City Family and Housing Courts showed that 57% had incomes under \$20,000, and 80% had incomes under \$30,000 annually.⁷³ In 2003, a California Report to the Legislature found that more than 90% of the people who used the court's self-help programs earned less than \$24,000 per year.⁷⁴

B. Bar Programs and Pro Se Petitioners

In addition to LITCs, state and local bar groups around the country have created programs for assisting pro se petitioners. The Tax Court has formally recognized a number of these groups.⁷⁵ In its report to Congress, the Tax Court states:

The Court provides information to every self-represented petitioner as to the availability of these programs. The information, in the form of a letter, is provided three times: when a petition is filed, when the notice of trial is issued, and 30 days before the call of the calendar. In addition to the communication that clinics may have with petitioners prior to trial, representatives of most of the 131 clinics appear at calendar calls to assist petitioners who appear in Court without counsel. The Court is now regularly communicating with all participating clinic and calendar call programs to update information as to particular calendars and to advise the presiding judge as to the program lawyers that will assist at the trial session.⁷⁶

The report states that bar-sponsored programs exist in 15 cities.⁷⁷ The bar-sponsored programs register with the Tax Court and receive notice from the Court of upcoming calendars. In some cities, the bar-sponsored program provides representation in situations in which no LITC exists. In other situations, the bar-sponsored programs supplement LITC representation. In addition to the 14 bar-sponsored programs, the American Bar Association Tax Section began (and the Center for Taxpayer Rights has now taken over) efforts that seek to establish a pro bono referral list that will match tax attorneys with LITCs or the clients of LITCs.⁷⁸

73. *Pro Se Statistics*, TEX. ACCESS JUST. COMM'N 1, <https://www.texasatj.org/sites/default/files/3ProSeStatisticsSummary.pdf> (last visited Nov. 5, 2022).

74. *Id.* at 1.

75. 2021 U.S. TAX CT. CONG. BUDGET JUSTIFICATION 22 (Feb. 2020).

76. *Id.*

77. *Id.*

78. The Center for Taxpayer Rights has created an LITC support center, and one component of the support center is the LITC Pro Bono Referral Network. The Pro Bono Referral Network is described on the Center's website as follows:

While clinicians and volunteers dedicate their time to helping low income taxpayers through LITCs, they represent only a small fraction of the pro se petitioners in Tax Court. In recognition of this, in 2019, the Tax Court began allowing for limited scope appearances, which allows volunteers to help pro se taxpayers with their cases at the calendar call without having to provide representation throughout the case.⁷⁹ This provides a helpful step toward increased representation of pro se taxpayers. As will be discussed at the end of this paper, other solutions exist which can provide representation of pro se petitioners and the issues they raise.

V. FOCUS CASES

In this section, we briefly discuss some of the core, precedential cases in which the taxpayer represented themselves pro se. The cases in this section illustrate the scope of the potential problem as well as the positive effect that outside help from Low Income Tax Clinics or pro bono counsel can have on taxpayer precedent. The cases chosen had issues that we felt might have benefited from advocacy on both sides. As you can see from Table 5, the Tax Court has rendered many precedential opinions involving pro se petitioners; therefore, we have limited our discussion to a small number of them. Starting with an overview of some of the cases that have had generally unfavorable outcomes to the taxpayer, we then discuss cases where LITCs have aided in reaching a favorable outcome.

A. *Unfavorable Precedent in Pro Se cases*

We have selected the following cases as illustrative of situations where a taxpayer appeared pro se, and where the result has had a negative precedential effect for future taxpayers. The use of the word “negative” is merely to signify that the result favored the IRS position as opposed to the position of the individual taxpayer who, in these cases, appeared without representation. Obviously, these decisions reached positive outcomes from the IRS perspective and generally reached the appropriate result even without much taxpayer input. Because of the

For rural and small LITCs, the demand for services outstrips the LTC's legal staff resources and it can be challenging finding pro bono attorneys in their area willing to take on a tax case. The LTC Pro Bono Referral Network will connect volunteer lawyers from large and mid-size firms with rural or small LITCs, providing much needed representation. In addition, the value of the donated attorney time can be used for dollar-for-dollar matching in-kind funds for additional IRS funding, thereby increasing cash resources available for staffing and other program expenses.

Low Income Taxpayer Clinic Support Center, CTR. TAXPAYER RTS., <https://taxpayer-rights.org/litcs/#> (last visited Mar. 22, 2021).

79. 2021 LITC REPORT, *supra* note 52, at 24. See also 2022 U.S. TAX CT. CONG. BUDGET JUSTIFICATION 25 (Apr. 2021).

outsized impact of precedential cases, and even though the Tax Court generally reaches the right result in one-sided cases, the relatively small additional step suggested by this paper could have a significant impact in the right cases.

i. Greene-Thapedi v. Commissioner

The Tax Court decided *Greene-Thapedi v. Commissioner*, published in 2006. The petitioner challenged the IRS's notice of determination sustaining a levy to collect her 1992 income tax, contending that the IRS had failed to timely assess her income taxes and had included excessive interest accruals.⁸⁰ In her Collection Due Process (CDP) case, she sought a refund of amounts she had previously paid to her 1992 account.⁸¹

After the filing of her petition, respondent offset a \$10,633 overpayment from petitioner's 1999 income tax liability against her 1992 tax liability. Petitioner filed a request to add the 1999 taxable year to the Tax Court petition. The Court denied her request. Petitioner filed a refund suit in the U.S. District Court, Northern District of Illinois, Eastern Division, to try to get back her 1999 overpayment. The matter was stayed, pending the outcome of the Tax Court petition.

Because the IRS offset petitioner's 1999 overpayment in full payment of her 1992 liability, the IRS contended that the case should be dismissed as moot. The Tax Court agreed in a precedential opinion. The Court recognized that there was an unresolved claim for a refund for 1992; however, because there was no outstanding amount that the IRS sought to collect on the 1992 taxable year, the Court ruled it could not proceed with the matter without statutory authorization.⁸² In making this assertion, the Court relied on the fact that Congress has generally "acted infrequently"⁸³ to extend the Tax Court's overpayment jurisdiction. This decision allowed the IRS to render the Tax Court case moot by applying a later overpayment to the tax year originally at issue, forcing the petitioner to move forward with her attempt at a refund in another venue. This holding has been cited in numerous subsequent opinions and was specifically followed in *McLane v. Commissioner*, where the petitioner was, once again, pro se.⁸⁴

80. *Greene-Thapedi v. Commissioner*, 126 T.C. 1, 1 (2006).

81. *Id.*

82. *Id.* at 8.

83. *Id.* at 1213.

84. *McLane v. Commissioner*, 116 T.C.M. (CCH) 277 (T.C. 2018), *aff'd*, 24 F.4th 316 (4th Cir. 2022) (receiving pro bono representation on appeal). *See also* *Brown v. Commissioner*, 122 T.C.M. (CCH) 199 (T.C. 2021); *Ahmed v. Commissioner*, 122 T.C.M. (CCH) 386 (T.C. 2021). The National Taxpayer Advocate recommends amending existing legislation to overturn the outcome in *Greene-Thapedi* for her Legislative Recommendation #49. *See* 2022 I.R.S., NAT'L TAXPAYER ADVOC. SERV., PURPLE BOOK 99 (Dec. 2021) [hereinafter 2022 PURPLE BOOK]. The recommendation in the 2022 Purple Book follows essentially the same recommendation as in prior years.

ii. Moya v. Commissioner

In *Moya v. Commissioner*, the taxpayer asked for a redetermination of her income-tax deficiencies, which resulted from the IRS's disallowance of certain business deductions and the taxpayer's alleged failure to include Social Security benefits in reporting her income.⁸⁵ Ms. Moya brought her case in front of the Tax Court to challenge the IRS on the grounds that it deprived her of rights guaranteed to her by the Taxpayer's Bill of Rights in conducting the examination of her returns.⁸⁶

During the taxable years at issue, Ms. Moya was a professor at the College of Southern Nevada. Each year, she reported her wages as received from the college and included a Schedule C, Profit or Loss from Business, for "IAM Enterprises," which she said was a workforce training business.⁸⁷ On this form, she reported expenses in excess of income, resulting in net losses.⁸⁸ The IRS began its examination for the years at issue in 2012, and by early 2014, it was conducting its examinations from the Las Vegas, Nevada office.⁸⁹ Petitioner requested multiple times to get the case moved to Santa Cruz, CA, where the petitioner now lived.

Ms. Moya argued that the Tax Court should invalidate the notice of deficiency because the IRS issued it in an unlawful manner, citing the Taxpayer Bill of Rights (TBOR) as support for her position. The Court noted in its opinion that the first right of TBOR is "The Right to Be Informed."

The IRS relied principally on *Greenberg's Express, Inc. v. Commissioner*, which held that the Court will not generally "look behind a notice of deficiency" to "any previous record developed at the administrative level."⁹⁰ This case presented one of first impression regarding the application of *Greenberg's Express* to the TBOR. The IRS stipulated that there is "no caselaw specifically addressing the issue."⁹¹ The IRS argued that "TBOR does not embody constitutional rights" and, therefore, did not provide an exception to *Greenberg's Express*. It further argued that Ms. Moya did not directly address the inaccuracy of her underlying deficiencies at trial.

The Court stated that the arguments presented to them about the IRS TBOR were not "rigorous" on either side, noting that "[p]etitioner has made no argument at all"⁹² (seemingly dismissing the imbalance of

85. *Moya v. Commissioner*, 152 T.C. 182, 183 (2019).

86. *Id.*

87. *Id.* at 184–85.

88. *Id.* at 185.

89. *Id.* at 185.

90. *Moya*, *supra* note 84, at 190 (citing *Greenberg's Express v. Commissioner*, 62 T.C. 324, 327 (1974)).

91. *Id.* at 191.

92. *Id.* at 192.

power of the parties in this case, as the IRS failed to convince the Court of the inapplicability of a *Greenberg's Express* exception even with counsel). The Court then did their “own examination of the question” and determined that even if all three of the TBOR provisions raised by Ms. Moya were violated, and even if the IRS did not afford her an interview near her California home before issuing the notice, it would still uphold the notice of deficiency because: “(1) the IRS TBOR did not add to petitioner’s rights and (2) even if everything she says is true, respondent’s missteps that petitioner complains of would not in this de novo proceeding cause us to either lift or lighten her burden of proving error in respondent’s determinations of deficiencies in her tax.”⁹³

After the case was published, counsel at McDermott Will & Emery noted in their article “What Happens at Exam, Stays at Exam!” that: “[Moya v. Commissioner] reminds us that when you litigate a case in Tax Court, what happened during the [IRS]examination and Appeals bears very little relevance (if any) once you get to court.”⁹⁴ The case is now established precedent for all future cases on the matter.

Moya is not the only case that summarily rejected a taxpayer’s claim to statutory rights under the Taxpayer Bill of Rights. It is worth noting a 2020 case which comes from the Court of Federal Claims, *Shnier v. U.S.* This case is particularly important, as it refers to the Court’s Bar Association Pro Bono/Attorney Referral Pilot Program. *Shnier* provides an example of a Court advocating for a petitioner to seek representation or assistance, and the plaintiffs in this case agreed to referral. However, in a status report, the plaintiffs stated that “neither an attorney, nor the Court’s Bar Association, [had] contacted the Plaintiffs regarding” their case.⁹⁵ The Court of Federal Claims subsequently ruled against the plaintiff’s TBOR claims.

iii. Lewis v. Commissioner

The next case comes from 2007. *Lewis v. Commissioner* has spurred a substantial amount of litigation after its completion, and later writings have shown a host of arguments that the Court did not consider in rendering its anti-taxpayer decision, highlighting the difference that representation or assistance from a LITC could have made.

Lewis revolves around the question of when it is appropriate to challenge the amount or existence of a liability in Collection Due Process. The petitioner, Mr. Lewis, was a plumber by trade.⁹⁶ He and his wife jointly filed their tax return for the 2002 taxable year in January

93. *Id.* at 192.

94. Le Chen et al., *What Happens at Exam, Stays at Exam!*, TAX CONTROVERSY 360 (Apr. 26, 2019), <https://www.jdsupra.com/legalnews/what-happens-at-exam-stays-at-exam-98904/>.

95. *Shnier v. U.S.*, 151 Fed. Cl. 1, 4 (2020).

96. *Lewis v. Commissioner*, 128 T.C. 48, 49 (2007).

of 2004.⁹⁷ The IRS assessed the tax reported as well as additions under section 6651(a)(1) and (2) of \$2,618.10 for late filing and \$581.80 for late payment.⁹⁸ Mr. Lewis submitted a request to the IRS to abate the additions to tax, citing reasonable cause because his accountant was hospitalized with cancer at the time Mr. Lewis's taxes were due.⁹⁹ His case was assigned to an Appeals officer, who denied his request. Mr. Lewis then requested a Collection Due Process hearing in 2005, citing the same reasons for his request for abatement. The settlement officer determined that Mr. Lewis's request had already been considered by Appeals, and therefore the liability could not be "raised properly again in his collection review hearing."¹⁰⁰ The IRS then issued a Notice of Determination Concerning Collection Action(s) under Section 6320 and/or 6330 to Mr. Lewis, and he filed a petition with the Tax Court in 2006 in response.¹⁰¹ The "only question raised in the petition was whether there is reasonable cause to abate the additions to tax" for late filing and payment.¹⁰²

The IRS filed a motion for summary judgment, pursuant to section 6330(c)(2)(B) and section 301.6330-1(e)(4), stating that "because petitioner was offered and participated in an Appeals conference, he is precluded from properly raising his underlying tax liability again in a subsequent review proceeding."¹⁰³ The Court considered the validity of section 301.6330-1(e)(4) and Congressional intent in determining that "because petitioner had an opportunity, and availed himself of that opportunity, to dispute the underlying tax liability in a conference with the Appeals Office, he may not raise that underlying liability again in a collection review hearing or before this Court."¹⁰⁴

This case is notable for not only its published precedential opinion, but also because of its litigious aftermath. To discuss the aftermath of the case, it is first important to dig deeper into the Court's reasoning in denying Mr. Lewis relief. Section 6330(c)(2)(B) of the code says that a taxpayer "may also raise at the hearing challenges to the existence or amount of the underlying tax liability for any tax period if the person did not receive any statutory notice of deficiency for such tax liability or did not otherwise have an opportunity to dispute such tax liability."¹⁰⁵ The

97. *Id.*

98. *Id.*

99. *Id.*

100. *Id.* at 50.

101. *Id.*

102. *Lewis, supra* note 95, at 50.

103. *Id.* at 48.

104. *Id.* at 48-49.

105. A. Lavar Taylor, *When Can Taxpayers Challenge the Merits of the Underlying Liability in CDP Appeals: Why the Tax Court Was Wrong* in *Lewis v. Commissioner and Its Progeny*, PROCEDURALLY TAXING (Feb. 26, 2014), <https://procedurallytaxing.com/when-can-taxpayers-challenge-the-merits-of-the-underlying-liability-in-cdp-appeals-why-the-tax-court-was-wrong-in-lewis-v-commissioner-and-its-progeny-2/>.

Lewis court discussed Regulation 301.6330-1(e), which states that “[a]n opportunity to dispute the underlying liability includes a prior opportunity for a conference with Appeals that was offered either before or after the assessment of the liability.”¹⁰⁶ Following *Chevron* deference, the Court examined the validity of this regulation.

The Court notes that Congress has not specifically defined the phrase “otherwise have an opportunity to dispute” a tax liability, and that a “fair reading of the section suggests different possible meanings,” including that “it can be read to mean an opportunity to challenge the underlying liability in a forum ultimately subject to judicial review” or “it can be read to include challenges subject to judicial review as well as challenges heard by respondent’s Appeals Office in circumstances where no subsequent prepayment judicial review of the determination is available.”¹⁰⁷ The court discusses the avenues by which a person may get to Tax Court and determines that reading section 6330(c)(B) “as a whole” could allow one to “conclude that congress intended only for taxpayers who previously litigated, or were afforded the opportunity to litigate their tax liabilities...to be precluded from raising the underlying tax liability in a collection review hearing.”¹⁰⁸ However, the Court notes problems with this interpretation, saying that “if Congress were concerned only with preventing taxpayers from enjoying multiple opportunities to litigate their tax liability, it certainly did not make this intent clear.”¹⁰⁹ The Court goes on to express that “to hold that every taxpayer is entitled to litigate his underlying nondeficiency liability once a collection action is initiated would only encourage a taxpayer to await until a collection action begins before disputing the liability.”¹¹⁰ The Court discusses the “importance to Congress of a meaningful Appeals process” and says that “while not a *de novo* review by a judge, Appeals nonetheless provides a taxpayer with an opportunity to dispute a tax liability.”¹¹¹ The Court finds that “it is reasonable to conclude that Congress intended not only to address those taxpayers who were previously provided an opportunity to litigate their liability, but also those provided an opportunity to dispute the liability short of litigation,”¹¹² thus upholding the regulation.

The tax community has not embraced this interpretation.¹¹³ Writing in the wake of the case, Lavar Taylor states that “[s]imply put,

106. Treas. Reg. § 301.6330-1(e) (2006).

107. *Lewis v. Commissioner*, 128 T.C. 48, 55 (2007).

108. *Id.* at 56.

109. *Id.* at 57.

110. *Id.* at 58.

111. *Id.* at 59.

112. *Id.* at 60.

113. In her 2021 Annual Report to Congress, the National Taxpayer Advocate highlights 10 of her recommendations for legislation. Included in her top 10 recommendations for change is a legislative fix for the decision in *Lewis*. See 2021 NAT’L TAXPAYER ADVOCATE REPORT, *supra* note 17,

the Court reached the wrong conclusion in *Lewis*.¹¹⁴ Taylor reframes the question to ask whether Congress intended the “opportunity” that a taxpayer must challenge the merits of a liability in a CDP proceeding to be a judicial opportunity or an administrative one, noting that the challenge to the IRS Office of Appeals is merely an administrative avenue. Taylor posits that if Congress actually meant an “opportunity” to mean an administrative opportunity, then “there could never be any circumstances under which a taxpayer could challenge the merits of an assessment under section 6332(c)(2)(B).”¹¹⁵ Taylor goes on to point out that “[v]irtually every taxpayer who has received a bill from the IRS for unpaid taxes has an ‘opportunity’” to challenge it in an administrative manner, whether that’s by submitting an offer-in-compromise, a request for penalty abatement, or a request for reconsideration, for instance.¹¹⁶ None of these, Taylor notes, “carry with them [the] right of . . . judicial review of an adverse administrative ruling.”¹¹⁷

At the end of his arguments, Taylor makes the following observation, which is key for our purposes: “[b]ecause the taxpayer in *Lewis* was unrepresented, [these arguments] were not presented to, or considered by, the Court.”¹¹⁸ Further, because the case was published as precedential, we are now “stuck” with this outcome.¹¹⁹ The case has been followed in later decisions.¹²⁰

at 5–8. In the 2022 Purple Book, Legislative Recommendation #16 details the reason for the proposed change, including:

“...that judicial and administrative interpretations limiting a taxpayer’s ability to challenge the IRS’s liability determination in a CDP hearing are inconsistent with Congress’s intent when it enacted CDP procedures. Compared to the burden the current rules place on taxpayers, and in view of the statutory safeguards already in place to prevent frivolous or meritless CDP proceedings, allowing more taxpayers to dispute their tax liabilities in CDP hearings will better protect taxpayer rights without imposing an undue administrative burden on the IRS or the Tax Court.”

2022 PURPLE BOOK, *supra* note 84, at 37.

114. A. Lavar Taylor, *supra* note 104.

115. *Id.*

116. *Id.*

117. *Id.*

118. *Id.*

119. *Id.*

120. See Keith Fogg, *Contesting the Merits of the Underlying Tax in a Collection Due Process Case – A Convoluted Fact Pattern Leads to Wrong Decision*, PROCEDURALLY TAXING (Oct. 16, 2015), <https://procedurallytaxing.com/contesting-the-merits-of-the-underlying-tax-in-a-collection-due-process-case-a-convoluted-fact-pattern-leads-to-wrong-decision/>. The Tax Court takes this argument to a new level in *Lander v. Commissioner*, 154 T.C. 104, 121–23 (2020) (holding that even when the taxpayers unquestionably failed to receive the notice of deficiency, the fact that they requested audit reconsideration prior to receiving a CDP notice prevented them from raising the merits of their case in the CDP hearing because they had a prior opportunity to go to Appeals as a part of the audit reconsideration process). This, and other, progeny of *Lewis*, have reduced the prior opportunity provision of I.R.C. § 6330 to a shadow, leaving taxpayers with little opportunity to litigate the merits in a CDP case, and giving taxpayers essentially the same rights they had before the enactment of CDP. See Keith Fogg, *Tax Court Holds Audit Reconsideration Serves as Prior*

Taylor was not the only one to take issue with the Court's reasoning in *Lewis*. Recall that Section 6330(c)(2)(B) states a taxpayer "may also raise at the hearing challenges to the existence or amount of the underlying tax liability for any tax period if the person did not receive any statutory notice of deficiency for such tax liability or did not otherwise have an opportunity to dispute such tax liability."¹²¹ Chaim Gordon of Venable, LLP argues that the Court in *Lewis* completely misread Section 6330(c)(2)(B), reading the "or" as an "and" without ever explaining why they did so.¹²² This is yet another argument that would have been ripe for consideration by the Tax Court had the petitioner in this case been represented.¹²³

iv. Ramey v. Commissioner

The Tax Court decided the *Ramey* case in January of 2021.¹²⁴ The petitioner, Wiley Ramey, was a pro se litigant but also a lawyer. Notwithstanding the petitioner's legal background, the case was argued and decided unfavorably, creating poor precedent for future taxpayers.

On July 13, 2018, the IRS sent the petitioner a Notice of Intent to Levy and Notice of Your Right to a Hearing (the "Notice").¹²⁵ The IRS sent the Notice to petitioner's last known address, where someone accepted delivery on behalf of Mr. Ramey.¹²⁶ While the petitioner did not dispute the IRS sent the Notice to his last known address, he asserted that multiple businesses also use this address and that the person who signed for him in receipt of the Notice did not have authority to do so.¹²⁷ The Court accepted these assertions as true for the purposes of the opinion.¹²⁸

Mr. Ramey did "admit...that the Notice eventually 'wound up on ... [his] desk' before August 12, 2018."¹²⁹ Nonetheless, he did not submit his completed Form 12153 until August 16, 2018. The form had a

Opportunity Eliminating the Right to a Merits Hearing, PROCEDURALLY TAXING (Apr. 22, 2020), <https://procedurallytaxing.com/tax-court-holds-audit-reconsideration-serves-as-prior-opportunity-eliminating-the-right-to-a-merits-hearing-in-a-cdp-case/>, for a discussion of the case.

121. I.R.C. § 6330(c)(2)(B).

122. Carlton Smith, *Three Circuits to Consider the CDP Issue of a Prior Opportunity to Contest Underlying Tax*, PROCEDURALLY TAXING (Feb. 24, 2016), <https://procedurallytaxing.com/three-circuits-to-consider-the-cdp-issue-of-a-prior-opportunity-to-contest-underlying-tax/>.

123. The 6th Circuit rejected this argument, however, in *Patrick's Payroll Services, Inc., v. Commissioner*, 848 Fed. Appx. 181, 181 (6th Cir. 2021). See Keith Fogg, *Sixth Circuit Upholds Tax Court Decision Denying Merits Litigation in Collection Due Process Case*, PROCEDURALLY TAXING (Mar. 16, 2021), <https://procedurallytaxing.com/sixth-circuit-upholds-tax-court-decision-denying-merits-litigation-in-collection-due-process-case/>, for a discussion of the case.

124. *Ramey v. Commissioner*, 156 T.C. 1 (2021).

125. *Id.* at *4.

126. *Id.*

127. *Id.* at *5–6.

128. *Id.* at *6.

129. *Id.* at *5.

postmark date of August 20, 2018, and arrived at the IRS on August 24, 2018. The IRS treated this submission as untimely for purposes of requesting a CDP hearing under section 6330 and instead granted him an “equivalent hearing.” The Appeals office informed Mr. Ramey that his request for a CDP hearing had been denied because it was not “received within the 30-day time period as set in the statute.”¹³⁰

Mr. Ramey sought review of this letter in the Tax Court. The Commissioner filed a Motion to Dismiss for Lack of Jurisdiction in response to the lawsuit, stating that Mr. Ramey “forfeited his right to a hearing under section 6330 because he failed to request that hearing timely” and noting that, although the IRS gave Mr. Ramey an equivalent hearing, a “decision letter issued pursuant to such a hearing is not subject to judicial review.”¹³¹ Mr. Ramey responded with an opposition motion, contending that the Notice was improperly served because he did not sign for it or receive it in a timely manner.¹³²

The regulations issued for section 6330 provide that “[t]he IRS may effect delivery of a pre-levy CDP [n]otice . . . in one of three ways: (A) by delivering the notice personally to the taxpayer; (B) by leaving the notice at the taxpayer’s dwelling or usual place of business; or (C) by mailing the notice to the taxpayer at the taxpayer’s last known address by certified or registered mail, return receipt requested.”¹³³ Further, “[a]ctual receipt is not a prerequisite to the validity of the CDP notice.”¹³⁴ The case considered these regulations as well as their conclusion that: while their jurisdiction is generally limited, “if, in reviewing a CDP case, [the Court] determine[s] that IRS Appeals erred in concluding that a taxpayer’s request for a section 6330 hearing was untimely, [the Court has] jurisdiction to correct the error.”¹³⁵ The Court concluded that the regulations and section 6330 language confirmed the conclusion that Mr. Ramey’s request for a CDP hearing was untimely and therefore ordered dismissal of the case for lack of jurisdiction.¹³⁶

There has already been chatter about *Ramey* within the tax community, particularly, the Tax Court’s focus on the idea that it is the

130. *Ramey v. Commissioner*, 156 T.C. 1, *6 (2021). The Supreme Court’s decision in *Boechler v. Commissioner* impacts this decision, even though the *Boechler* case deals with the later time frame of the period for filing a petition in the Tax Court after a CDP determination. *Boechler v. Commissioner*, No. 18578-17L (T.C. Feb. 15, 2019) (order dismissing case for lack of jurisdiction), *aff’d*, 967 F.3d 760 (8th Cir. 2020), *reh’g denied* (Nov. 17, 2020), *rev’d*, 142 S. Ct. 1493 (2022). The *Boechler* opinion will likely result in a reversal of *Ramey*. See Carl Smith, *Judge Goeke Asks: “After Boechler, Is the 30-Day Deadline to Request a CDP Hearing Subject to Equitable Tolling?”*,

PROCEDURALLY TAXING (Nov. 15, 2022), <https://procedurallytaxing.com/judge-goeke-asks-after-boechler-is-the-30-day-deadline-to-request-a-cdp-hearing-subject-to-equitable-tolling/>.

131. *Ramey*, 156 T.C., at *3, *7.

132. *Id.* at *7.

133. 26 C.F.R. § 301.6330-1(a)(3)(A-A8)(i) (2006).

134. § 301.6330-1(a)(3)(A-A9).

135. *Ramey*, 156 T.C., at *11-12.

136. *Id.* at *16.

sending the Notice of Determination that matters, not receipt of the Notice.¹³⁷ One lawyer, Scott St. Amand has noted that the petitioner did not focus on the statutory language of 6030(a)(2) in attempting to refute this harsh conclusion. That portion of the statute says that, if a notice is mailed, it must be sent by certified or registered mail, return receipt requested. Amand notes that the “very purpose” of certified mail is to ensure that the recipient actually receives the letter upon delivery, and that this is a point that is not made to the Court.¹³⁸

B. Cases with LITC Assistance

In this section, we will review cases where LITCs stepped in to represent pro se taxpayers. These cases illustrate the difference that LITC assistance (and therefore zealous advocacy) can make in helping to navigate some of the complexities of litigating a Tax Court case.

i. Ibrahim v. Commissioner

Ibrahim v. Commissioner,¹³⁹ a 2014 case, highlights “the pitfalls of unrepresented taxpayers facing IRS compliance action.”¹⁴⁰ The University of Minnesota Tax Clinic represented the petitioner. The original decision of the Tax Court was in favor of the IRS and against the taxpayer. However, the decision was reversed by the Eighth Circuit in 2015, resulting in pro-taxpayer precedent. Interestingly, the case was referred to the LITC via the Appeals Officer handling the case.¹⁴¹

The facts of this case paint a harrowing picture of the uphill battle many face with the IRS. The petitioner and his wife immigrated from Somalia. They did not speak, read, or write English.¹⁴² Petitioners filed his Form 1040, U.S. Individual Income Tax Return, in a timely manner for taxable year 2011, after a paid preparer advised them to file separate tax returns.¹⁴³ On the husband’s return the preparer claimed head of household filing status while on the wife’s return the preparer claimed single filing status. Neither filing status correctly reflected their

137. See Scott St. Amand, Ramey v. Commissioner (156 T.C. NO. 1), BRIEFLY TAXING: THE INDEX, PROCEDURAL ISSUES (Jan. 14, 2021), <https://brieflytaxing.com/ramey-v-commissioner-156-t-c-no-1/>.

138. *Id.*

139. 107 T.C.M. (CCH) 1050 (2007).

140. Kathryn Sedo, Ibrahim v. Comm’r: A Procedural Trap for Unrepresented Taxpayers, PROCEDURALLY TAXING (Jan. 29, 2014), <https://procedurallytaxing.com/ibrahim-v-commr-a-procedural-trap-for-unrepresented-taxpayers/>.

141. E-mail from Kathryn Sedo, Clinical Professor of L. Emeritus, Univ. Minn. L. Sch., to Keith Fogg, Emeritus Clinic Professor, Harvard L. Sch., (Apr. 4, 2022, 12:11 PM) (on file with the author). Professor Sedo remarks that she thought the Appeals Officer believed she would convince the client to concede. However, Professor Sedo had recently attended an ABA meeting where a similar issue was raised in a Fifth Circuit case that she thought could be useful for the client’s argument.

142. *Ibrahim*, 107 T.C.M. (CCH) at 1051.

143. *Id.*

situation. Mr. Ibrahim's return included two of his minor children as dependents but not his other two children.¹⁴⁴ The IRS sent a notice of deficiency to Mr. Ibrahim, determining that his "correct filing status for 2011 was married filing separately rather than head of household."¹⁴⁵ Mr. Ibrahim petitioned the Tax Court to challenge the notice, claiming that he received incorrect advice from the tax preparer, and sought permission to file an amended return.¹⁴⁶

Section 6013(b)(1) "allows an individual who has filed a 'separate return' for a taxable year in which the individual could have filed a joint return with his spouse to amend his return to elect joint filing status."¹⁴⁷ However, a taxpayer cannot amend after "there has been mailed to either spouse, with respect to such taxable year, a notice of deficiency under section 6212, if the spouse, as to such notice, files a petition with the Tax Court within the time prescribed in section 6213."¹⁴⁸

The case revolved around a circuit split regarding the meaning of filing a "separate return." The Tax Court chose, in this case, to not follow the taxpayer-favorable precedent. The clinic appealed the case to the Eighth Circuit, where they succeeded in reversing the Tax Court's decision. This outcome would not have occurred without the assistance of the LITC.¹⁴⁹

ii. Palomares v. Commissioner

In another case from 2014, *Palomares v. Commissioner*, the Gonzaga Law School Tax Clinic litigated over a period of five years to assist a pro se taxpayer who made an understandable error: confusing an "innocent spouse" and an "injured spouse" form.¹⁵⁰ The petitioner "spoke very little English and generally conversed in Spanish."¹⁵¹ She filed a married filing joint return with her spouse for taxable year 1996. Later in her marriage she filed tax returns using head of household status.

The IRS applied nearly \$15,000 of Mrs. Palomares's refund credits from the separate returns against her joint tax liability. Mrs. Palomares requested refunds and sought the aid of a general legal clinic to assist her. Unfortunately, she filed an injured spouse rather than innocent

144. *Id.*

145. *Id.*

146. *Id.* at 1051. While the LITC represented Mr. Ibrahim in Tax Court, it did not represent him prior to that time when it might have had the opportunity to file an amended return for him and avoid litigation.

147. *Id.*

148. *Ibrahim v. Commissioner*, 107 T.C.M. (CCH) 1050, 1051 (2007); I.R.C. § 6013(b)(2)(B).

149. The original Tax Court case was not published as precedential, but the Eighth Circuit case is now precedent.

150. *Palomares v. Commissioner*, T.C. Memo 2014-43, at *1, *rev'd on other grounds*, 691 Fed. App'x 858 (9th Cir. 2017).

151. *Id.*

spouse form with their assistance. The IRS sent back the correct form, but she failed to understand the correspondence.

She later filed an innocent spouse claim, but the IRS denied the claim as not “timely filed.”¹⁵² The question before the Tax Court was whether Form 8379 constituted an “informal claim” that would allow her to be within the statute of limitations for her full refund. It ruled her claim untimely by finding that the information on the wrong form insufficiently provided the IRS with information to constitute a claim.

She appealed to the Ninth Circuit, which reversed the Tax Court and ruled that the form she filed did constitute a valid informal claim.¹⁵³ Without the assistance of the LITC, she would have lost.

iii. Trimmer v. Commissioner

A 2017 case, *Trimmer v. Commissioner*, resulted in a precedential Tax Court opinion for the petitioner thanks to the assistance of the LITC at Fordham Law School.

Mr. Trimmer, who suffered from depression, received distribution checks from two retirement accounts, adding up to just over \$100,000.¹⁵⁴ He failed to roll over the checks to another retirement account and instead deposited them into a “regular” joint bank account owned by the couple. When the couple met with their preparer, he explained the problem and had them deposit the funds into an appropriate retirement account.

Subsequently, the IRS asserted that they did not report the \$100,700 of taxable retirement income.¹⁵⁵ The IRS summarily denied Mr. Trimmer’s plea for relief, stating only that “the law requires you to roll over your distribution within 60 days of the distribution date.” In denying relief, the IRS “did not mention respondent’s statutory authority to grant hardship waivers or any procedure for applying for one” and made no mention of Mr. Trimmer’s individual situation. The Trimmers petitioned the Tax Court in 2014 with the assistance of the LITC.

In a four-part opinion, the Tax Court granted equitable relief to Mr. Trimmer, stating the following: “we conclude and hold that in the unique facts and circumstances of this case, pursuant to section 402(c)(3)(B) it would be against equity or good conscience to deny petitioners a waiver of the 60-day rollover requirement. Accordingly, we do not sustain

152. *Id.*

153. Keith Fogg, *Ninth Circuit Reverses Tax Court on Informal Claim Determination*, PROCEDURALLY TAXING (May 31, 2017), <https://procedurallytaxing.com/ninth-circuit-reverses-tax-court-on-informal-claim-determination>.

154. *Trimmer v. Commissioner*, 148 T.C.M. (CCH) 334, 336 (2017).

155. *Id.* at 337.

respondent's determination to treat the two distributions as immediately taxable."¹⁵⁶

This precedential decision provided a huge victory not just for the Trimmers, but also for those who may try to seek relief from the Tax Court in the future.

iv. Myers v. Commissioner

In this case from 2017, Mr. Myers filed a petition seeking a whistleblower award. The IRS objected to the petition, arguing that he filed late, and the Tax Court dismissed the case for lack of jurisdiction.¹⁵⁷ In dismissing his case, the Tax Court imported its case law from its deficiency jurisdiction, holding that he had actually received the notice from the IRS regarding its denial of his award in time to file a timely petition even if the IRS failed to send the notice to him in the proper manner. He appealed to the wrong circuit, but his case was transferred to the D.C. Circuit, the only circuit with jurisdiction to hear appeals pursuant to the Tax Court's whistleblower jurisdiction.

After Mr. Myers filed the appeal, the Tax Clinic at the Legal Services Center of Harvard Law School reached out to him to assist in finding pro bono counsel and file an amicus brief. The D.C. Circuit found that the time for filing a petition in Tax Court in a whistleblower case was not a jurisdictional time period, reversing the decision of the Tax Court.¹⁵⁸ The Myers case created the circuit split instrumental in the Supreme Court's acceptance of certiorari in the *Boechler* case.¹⁵⁹ Without the assistance of the clinic and pro bono counsel, Mr. Myers would not have had the knowledge and resources to make the argument that allowed his case to move forward and that ultimately influenced the Supreme Court to accept jurisdiction in a related case.

C. Other Cases of Note

i. Beard v. Commissioner

One of the most influential cases in tax law resulted from a pro se petition, *Beard v. Commissioner*. This 1984 case establishes the judicial test for what constitutes a tax return.¹⁶⁰ Because of the importance of the decision, the case provides an excellent example of the Tax Court reaching a time-tested decision without the assistance of the petitioner. Certainly, many other cases exist where the Tax Court reaches a decision

156. *Id.* at 341–42, 350.

157. *Myers v. Commissioner*, 148 T.C.M. (CCH) 438, 449 (2017).

158. *Myers v. Commissioner*, 928 F.3d 1025, 1027 (D.C. Cir. 2019).

159. *See Boechler v. Commissioner*, 967 F.3d 760 (8th Cir. 2020), *rev'd*, 142 S. Ct. 1493 (2022).

160. *Beard v. Commissioner*, 82 T.C. 766, 777 (1984).

which, by almost all measures, represents the correct result. *Beard* rendered a ground-breaking result that still provides guidance to petitioners and practitioners. Might the outcome have changed had the taxpayer been represented?¹⁶¹ Would representation have improved upon this decision? The decision creates the “Beard Test,” a four-part test for “determining whether a document constitutes a ‘return.’”¹⁶² *Beard* is “widely cited”¹⁶³ and has been applied not only to individual taxpayers, but to corporate taxpayers as well.¹⁶⁴ It has been cited in over 300 cases over the past decades and remains one of the pillars of tax case law.

VI. COURT PRACTICES IN THE USE OF PRO BONO PANELS OR AMICUS BRIEFS

Unlike some courts, the Tax Court has no rules governing the filing of amicus briefs.¹⁶⁵ Someone seeking to file an amicus brief must file a motion seeking permission to file the amicus brief and stating in the motion whether either party objects. The Court then decides whether to accept the amicus brief and later decides whether, if accepted, the amicus brief offers useful legal analysis.¹⁶⁶ The Tax Court also has no

161. *Beard* was not only a precedential opinion, but one in which the full Court reviewed the case. *See Beard*, 82 T.C. at 781–84, 788. The decision was not unanimous. Judge Chabot, joined by Judge Swift, would have found the document filed by Mr. Beard to be a return. *Id.* at 785 (Chabot, J., concurring in part and dissenting in part). Mr. Beard, like the Walquists discussed at the outset of this article, was not a sympathetic figure. Taxpayers who present themselves as tax protestors or otherwise attack the tax system understandably evoke human emotions in judges that can color their view. Cases with such taxpayers especially need a dispassionate representative in order to remove from the case the emotion created by inflammatory arguments and tactics.

162. Andrew R. Roberson, *Tax Court Rejects IRS Argument that Corporate Taxpayer Failed to File Valid Return*, TAX CONTROVERSY 360 (Sept. 13, 2017), <https://www.taxcontroversy360.com/2017/09/tax-court-rejects-irs-argument-that-corporate-taxpayer-failed-to-file-valid-return>.

163. *Id.*

164. *See* *New Capital Fire v. Commissioner*, T.C. Memo. 2017-177 at *6; Roberson, *supra* note 162.

165. On March 23, 2022, the Tax Court proposed amendments to its rules. *See* Press Release, United States Tax Ct. 1 (Mar. 23, 2022), <https://www.ustaxcourt.gov/resources/press/03232022.pdf>. One of the proposed amendments addresses amicus briefs and the issue of judges affirmatively seeking amicus briefs. *Id.* The proposed amendment creates new Rule 152, which provides that the Tax Court may direct amicus curiae to file a brief, or amicus curiae may file a motion with the court for leave to file a brief. *Id.* at 92. The proposed rule goes on to provide guidance on the matters the motion should discuss, including the content and form, the length, the time for filing, and limitations on filing a reply. *Id.* Comments on the proposed new rule were due by May 25, 2022. *Id.* at 1.

166. The Tax Clinic at the Legal Services Center at Harvard Law School has filed two amicus briefs with the Tax Court during the past several years which offer some insight into the process at the court. In the first of the two cases, the clinic filed an amicus brief in the case of *Guralnik v. Commissioner*. 146 T.C. 230, 232 (2016) (en banc). The court accepted the brief and, in its fully reviewed precedential opinion, wrote an extensive explanation regarding the incorrectness of the views expressed in the amicus brief. *Id.* at 235–38. The *Guralnik* case shows that the Court takes at least some amicus briefs quite seriously, even if it disagrees with the views expressed in the brief. *Id.* In the second of the two cases, *LaRosa v. Commissioner*, the clinic sought to file an amicus brief and the IRS objected. Objection to Motion For Leave to File As Amicus Curiae, *LaRosa v. Commissioner*, No. 10164-20 (T.C. July 23, 2021) (No. 22). The court directed the parties to write

formal process for appointing a representative for pro se taxpayers, however, the Court has a formal relationship with over 125 LITCs and 15 bar-related Tax Court calendar programs.¹⁶⁷ The Court notifies pro se petitioners at several points during the life of a case of the existence of the LITCs, including when it sends out the acknowledgement of filing, when it sends out the calendar notice, and again 30 days prior to trial.¹⁶⁸ A relatively recent rule change at the Tax Court adopting a limited appearance rule demonstrates that the Court is listening to suggestions made by members of its bar regarding changes that could further assist pro se taxpayers and implementing rules to accomplish that goal.¹⁶⁹

Given that the Tax Court has no formal rules regarding the filing of amicus briefs and no formal program for assigning pro bono counsel, this paper proposes the formalization of a process in one specific instance—the moment the Court decides that a particular pro se case might warrant a precedential opinion—but does not seek to limit the Tax Court to that circumstance if it should desire to establish broader rules regarding amicus briefs or appointment of counsel.¹⁷⁰ While this article focuses on appointment of an amicus in cases in which the Tax Court has decided to issue a precedential opinion to receive high-quality

memoranda in support of the filing or non-filing of the amicus brief and took the briefings under advisement. Order, *LaRosa v. Commissioner*, No. 10164-20 (T.C. Aug. 3, 2021) (No. 23). In both cases petitioners were represented by quite competent counsel. So, neither situation provides a model for the type of amicus procedure suggested by this paper, though, the cases do show that some filing of amicus briefs occurs in Tax Court cases.

167. See 2022 U.S. TAX CT. CONG. BUDGET JUSTIFICATION 25 (Apr. 2021).

168. These notices provide information to the pro se petitioner but do not explicitly connect the pro se petitioner to a clinic. That step is generally left to the petitioner. The clinic has no knowledge of the petitioners receiving this notice until the publication of the Tax Court calendar approximately six months in advance of the calendar unless the clinic affirmatively travels to the Tax Court to review filed petitions. In some cases, individual judges at the Tax Court, acting on their own initiative and not pursuant to any publicly available guidance, will reach out to a specific clinic or clinics prior to calendar call seeking to connect a petitioner with a representative. From the personal experience of occasionally receiving such a contact, author, Keith Fogg describes this practice as infrequent, done without pressure on the clinic, and only occurring in cases in which the petitioner has exhibited particular difficulty moving a potentially meritorious argument forward. At almost every calendar call of the Tax Court, if not every calendar call, clinicians and/or pro bono attorneys are present. Some judges prod pro se petitioners toward these representatives while others simply make an announcement of their presence in a verbal statement similar to the written information provided earlier in the case.

169. On May 29, 2020, the Tax Court issued Administrative Order 2020-03 which outlines the procedures for entering a limited entry of appearance. These procedures were effective as of June 1, 2020. Admin. Ord. 2020-03 (T.C. May 29, 2020). On October 6, 2020, the Tax Court formally amended T.C. Rule 24 adding subparagraph (a)(4) setting out the provisions for limited appearances and special recognition. Press Release, United States Tax Ct. (Oct. 6, 2020); see also 2022 U.S. TAX CT. CONG. BUDGET JUSTIFICATION 25 (Apr. 2021).

170. Though numerous differences exist that have an impact on why the Tax Court cases operate differently and make it more difficult to match taxpayers with pro bono counsel, the Court of Veterans Appeals, another Article 1 court, works through the Veterans Consortium to appoint volunteer representatives to a high percentage of veterans who file an appeal to this court. The Consortium can see the documents on the website of the Court of Veterans Appeals that allow it to understand the case, to contact the veteran, and to make a match between the veteran and pro bono counsel. See *Welcome to the Veterans Consortium*, THE VETERANS CONSORTIUM PRO BONO PROGRAM, <https://www.vetsprobono.org> (last visited Mar. 18, 2022).

legal arguments on both sides of an issue, another possible use of amicus, that is not the subject of this article, would be to invite amicus briefs in any case once the Court has decided to issue a precedential opinion.¹⁷¹

In adopting rules regarding amicus briefs, a host of scholarly literature provides background for setting up a process. We look to this literature and the practice of other courts to understand how a system may be implemented in the Tax Court.

The willingness of a court to accept an amicus brief depends largely on the circuit and judge. The majority of briefs come by solicitation of the client and must follow the Federal Rules of Appellate Procedure. Rule 29. Per Rule 29, followed in completion by the majority of circuits, “[a]ny... amicus curiae [aside from the United States or a state] may file a brief only by leave of court or if the brief states that all parties have consented to its filing, but a court of appeals may prohibit the filing of or may strike an amicus brief that would result in a judge’s disqualification.”¹⁷² Though many circuits will reject simple “me-too” briefs from amici,¹⁷³ even the stricter circuits are open to amicus briefs in certain situations. Judge Posner of the Seventh Circuit calls out three instances in which these briefs are justified, including when the amicus has an interest in another case that may affect the present appeal, when the amicus has new information, and, most relevantly for our purposes, when a party is not represented competently or at all.¹⁷⁴

Though amicus briefs are most popular at appellate levels, trial courts allow amicus briefs as well. While the “Federal Rules of Civil Procedure of civil procedure are silent on the filing of amicus briefs [at the district court level]...’District Courts have long been permitted to allow amicus appearances at their discretion.”¹⁷⁵ In the District of Colorado, for instance, judges have “frequently allowed or even solicited amicus participation in cases involving novel questions or matters of significant public import.”¹⁷⁶ Recently, the D.C. Circuit solicited an amicus brief related to jurisdiction in a whistleblower case coming from the Tax Court.¹⁷⁷

The amicus brief is a powerful tool in litigation, and courts are well aware of its impact, from state courts all the way to the U.S. Supreme

171. See, e.g., Abramowicz & Colby, *supra* note 6, at 966 n.6.

172. FED. R. APP. P. 29.

173. A recent example of a rejected amicus brief was that of Ivins, Phillips & Barker in *Liberty Global Inc. v. United States*, where the court felt the brief would not aid the court. See Andrew Velarde, *Court Denies Firm’s Amicus Move in Liberty Global*, TAX NOTES INT’L, Jan. 17, 2022, at 378.

174. FED. CT. APP. MANUAL § 32:14 (David G. Knibb 2020).

175. Stephen Masciocchi, *What Amici Curiae Can and Cannot Do with Amicus Briefs*, 46 COLO. LAW., Apr. 2017, at 23, 23.

176. *Id.*

177. *Li v. Commissioner*, 22 F.4th 1014, 1014–1015, 1015 n.1 (D.C. Cir. 2022).

Court. Writing in support of amicus briefs, Justice Black noted that “[m]ost cases before this Court involve matters that affect far more people than the immediate record parties.”¹⁷⁸ For that reason, and for the sake of zealous advocacy, courts have not only allowed amicus briefs, but have often solicited them from experts in the field to help fill out the arguments being made to the court. The state courts have established their own processes; for instance, the Connecticut Supreme Court has a notification list to alert organizations when it has posted a solicitation for amicus briefs in pending cases.¹⁷⁹ At the very top of the justice system, the U.S. Supreme Court frequently solicits amicus briefs, often times from the Solicitor General.¹⁸⁰

Amicus briefs have a notable impact on the Supreme Court’s jurisprudence. In the 2014-2015 term, 98% of cases had amicus filings, and in the 2017-2018 term, a total of 890 amicus briefs were filed (an average of 14 per case).¹⁸¹ In the 2017-2018 term, justices cited amicus briefs in 59% of the cases with majority opinions.¹⁸² It is now rare for a Supreme Court case to *not* include an amicus brief.¹⁸³ From 2015 to 2016, 92% of Supreme Court cases had amicus briefs, with an average of 13 briefs per case.¹⁸⁴ Amicus briefs are less popular in lower courts, but filings have risen over time.¹⁸⁵ According to Collins and Martinek, “in a recent survey of federal court judges, more than half of the court of appeals judges who responded indicated they had actively sought the assistance of amici.”¹⁸⁶ Further, the vast majority felt amici would be helpful if they provided new arguments or discussed the broader policy implications.¹⁸⁷ The trend extends to state courts as well,¹⁸⁸ particularly state supreme courts.¹⁸⁹

The Supreme Court has developed a practice of soliciting an amicus brief in cases where one side of a case reaching the Court has abandoned

178. *Order Adopting Revised Rules of the Supreme Court*, 346 U.S. 945, 947 (1954) (comment, Black, J.).

179. See Memorandum from Carolyn Ziogas, Chief Clerk, Sup. Ct. of Conn., to Conn. App. Ct. (Mar. 7, 2019), <https://www.jud.ct.gov/HomePDFs/AmicusCuriaePolicy.pdf>.

180. Stephen M. Shapiro, *Amicus Briefs in the Supreme Court*, A.B.A.: LITIG., Spring 1984, at 21, 21.

181. Richard DeMaio, *You’ve Got a Friend in Me: The Increasing Role of Amicus Curiae Briefs in Appellate Practice*, CAMPALO, MIDDLETON, & MCCORMICK LLP (Dec. 26, 2018), <https://cmmlp.com/youve-got-a-friend-in-me-the-increasing-role-of-amicus-curiae-briefs-in-appellate-practice/>.

182. *Id.*

183. Paul Collins, *The Use of Amicus Briefs*, 14 ANN. REV. L. & SOC. SCI. 219, 223 (2018).

184. Shai Farber, *The Amicus Curiae Phenomenon - Theory, Causes and Meanings*, 29 TRANSNAT’L L. & CONTEMP. PROBS., 2019, at 1, 7–8.

185. Collins, *supra* note 183.

186. Paul M. Collins & Wendy L. Martinek, *Judges and Friends: The Influence of Amici Curiae on U.S. Court of Appeals Judges*, 43 AM. POL. RSCH., 2014, at 1, 3.

187. *Id.*

188. Farber, *supra* note 184, at 8.

189. Donald R. Songer & Ashlyn Kuersten, *The Success of Amici in State Supreme Courts*, POL. RES. Q. 31, 32 (1995).

the case.¹⁹⁰ The Court invited amicus briefs 43 times between 1954 and 2011.¹⁹¹ In a Stanford Law Review Note, author Brian Goldman examined the objectives of the adversarial process, the effect of the amicus and the circumstances of each case in concluding that the Supreme Court's decision to seek argument from amicus undermined the adversarial process in some instances.¹⁹² The article describes four objectives of the adversarial process: accuracy; acceptability; neutrality; and resolution of disputes.¹⁹³ In examining the appointment of an amicus against these four goals, he finds that it clearly promotes accuracy if the amicus is fully invested in the case.¹⁹⁴ He finds that appointment of an amicus does not necessarily promote the goals of acceptability or neutrality though that failure is not always bad.¹⁹⁵ The circumstances of the appointments discussed in the case vary from the situation in which we recommend appointment in the Tax Court. Because the appointment in a pro se Tax Court case does not involve an abandoned argument, some of the concerns expressed in the article do not apply but all deserve consideration.

Scholars have studied the effect of amicus briefs by looking at the number of briefs filed in a case and have found that the more that are filed, the likelier the case is to make it to the Supreme Court;¹⁹⁶ further, the side with the most amicus briefs tends to win.¹⁹⁷ Scholars have also studied the influence of amicus briefs on the court's ideological direction¹⁹⁸ and by seeking out evidence of the influence of the amicus brief within a judge's opinion.¹⁹⁹ While there is no perfect way to measure the effectiveness of an amicus brief, it is widely understood that amicus briefs are influential to the court.²⁰⁰

VII. THE PROPOSAL

A. *The Adversarial Process*

The American judicial system is built upon the adversarial process. However, this process does not work well when only one party has

190. Brian P. Goldman, *Should the Supreme Court Stop Inviting Amicus Curiae to Defend Abandoned Lower Court Decisions?*, 63 STAN. L. REV. 907, 907 (2011); see also Katherine Shaw, *Friends of the Court: Evaluating the Supreme Court's Amicus Invitations*, 101 CORNELL L. REV. 1533, 1548, 1567 (2016).

191. Goldman, *supra* note 190, at 907.

192. *Id.* at 909–12.

193. *Id.* at 940.

194. *Id.* at 941–42.

195. See *id.* at 943–48.

196. Collins, *supra* note 183, at 226.

197. *Id.*

198. *Id.*

199. *Id.* at 227.

200. *Id.* at 226.

representation. Because of the importance of representation, the Supreme Court has guaranteed representation if the proceeding has the possibility of incarcerating an individual, beginning with *Gideon v. Wainwright*.²⁰¹ Since the landmark *Wainwright* case developing this right, a “Civil Gideon” movement has gained traction, with many noting that fundamental resources are at stake in civil cases that rival, and, in some cases, exceed that which is at stake in a criminal case. The movement was spurred in some part by Robert F. Kennedy’s speech to University of Chicago graduates in 1964, where he stated that “[w]e have secured the acquittal of an indigent person but only to abandon him to eviction notices, wage attachments, repossession of goods, and termination of welfare benefits.”²⁰² That same year, the Supreme Court recognized in *Brotherhood of RR Truman v. Virginia* that in civil cases, “[l]aymen cannot be expected to know how to protect their rights when dealing with practiced and carefully counseled adversaries.”²⁰³ Over forty years later, in 2006, the ABA officially urged federal, state, and territorial governments to provide legal counsel to low income individuals in “those categories of adversarial proceedings where basic human needs are at stake...”²⁰⁴ The Civil Gideon movement has led many states, including Virginia and Massachusetts, to provide legal counsel for certain specified areas of non-criminal cases like child custody and mental health cases.²⁰⁵ While not all Tax Court cases may rise to the current level of Civil Gideon-type cases, many involve fundamental access to benefits that contribute to keeping litigants and their families out of poverty. For instance, the Earned Income Tax Credit (EITC), often at issue in Tax Court cases involving unrepresented individuals, is the largest need-tested antipoverty program. It provides cash benefits in the United States, with 26.5 million taxpayers (17% of

201. *Gideon v. Wainwright*, 372 U.S. 335, 342–45 (1963). While the Supreme Court established precedent providing for representation in criminal cases, it has also affirmed and reaffirmed the constitutional basis for a defendant to represent themselves. *Id.*; *Faretta v. California*, 422 U.S. 806, 807 (1975). Yet, the highest Court has “been silent on how a trial should proceed when a defendant chooses to do so.” See Sharon Finegan, *Pro Se Criminal Trials and the Merging of Inquisitorial and Adversarial Systems of Justice*, 58 CATHOLIC UNIV. L. REV. 445, 445. (2009).

202. Louis S. Rouli, *On the Road to Civil Gideon: Five Lessons from the Enactment of a Right to Counsel for Indigent Homeowners in Federal Civil Forfeiture Proceedings*, 19 J. L. & POL’Y 683, 684 (2011).

203. James Neuhard, *Gideon Redux: A Defender’s View*, 28 CORNERSTONE MAG. no. 2, at 5, 5.

204. *Id.*

205. THE CONST. PROJECT, JUSTICE DENIED: AMERICA’S CONTINUING NEGLECT OF OUR CONSTITUTIONAL RIGHT TO COUNSEL, REPORT OF THE NATIONAL RIGHT TO COUNSEL COMMITTEE 74 (2009). In the 2021 National Taxpayer Advocate’s annual report to Congress, Erin Collins details many of the difficulties with correspondence exams and the difficulties they place on low income, unrepresented taxpayers. See 2021 NAT’L TAXPAYER ADVOC. REPORT, *supra* note 17, at 149. Those problems continue into litigation. See Leslie Book, *The IRS’s EITC Compliance Regime: Taxpayers Caught in the Net*, 81 OR. L. REV. 351, 351–53 (2002).

all taxpayers) receiving nearly \$65 billion from the EITC in 2018.²⁰⁶ The EITC and the Child Tax Credit (CTC) have been linked to improved infant and maternal health, better school performance and greater college enrollment, increased work and earnings in the next generation, and higher Social Security retirement benefits.²⁰⁷

These litigants are in critical need of access to a fair legal process.²⁰⁸ Over time, “numerous law review articles, judicial studies and reports have...reached a remarkable level of consensus regarding the nature of the problems faced by pro se litigants in our adversarial system in state and federal courts” across the country.²⁰⁹ This comes in the wake of an “inexorably rising tide of pro se litigation.”²¹⁰

As stated earlier in this paper, access to legal services comes at a steep cost. Further, the Supreme Court has, over time, limited the power of the courts to “recognize the need for and require the provision of counsel.”²¹¹

Some areas of the law have adapted (although only somewhat) to assist pro se parties in court. For instance, in the criminal law context, where the right to counsel is guaranteed, if a defendant chooses to continue pro se, there are protections in place. Courts generally take more active roles in the proceedings and “[h]ave relaxed strict procedural rules, mimicking procedures used in civil law countries”, and even this has been considered lacking.²¹²

Some circuit courts maintain plans to provide pro bono counsel in civil cases when deemed necessary. For instance, in the Second Circuit, counsel will be appointed in cases where there is an issue of first impression, a complex issue of fact or law, or a potentially meritorious

206. MARGOT L. CRANDALL-HOLLICK ET AL., CONG. RSCH. SERV., R43805, THE EARNED INCOME TAX CREDIT (EITC): HOW IT WORKS AND WHO RECEIVES IT (2021).

207. CHUCK MARR ET AL., CTR. ON BUDGET & POL’Y PRIORITIES, EITC AND CHILD TAX CREDIT PROMOTE WORK, REDUCE POVERTY, AND SUPPORT CHILDREN’S DEVELOPMENT, RESEARCH FINDS 1–2 (2015).

208. These concerns undoubtedly played a role in the creation of the grant provided to low income tax clinics in I.R.C. § 7526. The grant greatly expanded the number of clinics and, in turn, the ability of qualifying petitioners to obtain representation in Tax Court. See Keith Fogg, *Taxation with Representation: The Creation and Development of Low Income Taxpayer Clinics*, TAX LAW., no. 1, 2013, at 3–4. As mentioned above, not all pro se Tax Court petitioners qualify for clinic services and not all pro se petitioners who qualify seek assistance from LITCs. Some petitioners, such as the Walquists, may wish to make arguments that clinicians are uncomfortable making or place other restrictions that petitioners would find unacceptable.

209. Paris Baldacci, *Assuring Access to Justice: The Role of the Judge in Assisting Pro Se Litigants in Litigating Their Cases in New York City’s Housing Court*, 3 CARDOZO PUB. L. POL’Y & ETHICS J. 659, 660 (2006).

210. Landsman, *supra* note 50, at 440.

211. *Id.* at 444 (“In *Lassiter v. Department of Social Services of Durham County*, the Supreme Court held that a mother facing the termination of parental rights was not constitutionally entitled to the appointment of counsel. That decision requires case-by-case consideration of due process claims for appointment and indicates the Supreme Court’s disinclination to require appointment.”).

212. Finegan, *supra* note 201, at 445–46.

claim.²¹³ The Ninth Circuit also specifically uses pro bono counsel in cases of first impression, complex legal issues, or in cases where further oral argument and briefing is required.²¹⁴ While some circuits, like the First, Fifth, Seventh, and Eleventh Circuits do not have a formal pro bono counsel plan in place, attorneys can contact the clerk to be appointed as pro bono counsel. The Third, Fourth, and Sixth Circuits maintain pro bono panels. The Eight and Tenth Circuits maintain lists of attorneys interested in serving as pro bono counsel. Attorneys in these systems sit on pro bono panels and serve terms, and they will be contacted to represent the appellant either on their motion or by decision of the court.

For litigants appearing before the U.S. Court of Appeals for Veterans Claims (an Article I court, like the Tax Court), the Veterans Consortium Pro Bono Program provides similar relief to pro se litigants who may apply to receive counsel from the program.²¹⁵ The Court of Federal Claims has a pilot program (as mentioned in the discussion of *Shnier*) “under which legal representation may be potentially available to pro se plaintiffs who are referred to the program by the assigned judge.”²¹⁶ Assignment is “entirely within the discretion of the judge assigned to the case.”

Other proposals have focused on the role of judges in a case where a petitioner is pro se, with some suggesting that the judge take a more “enhanced role” in “assisting the pro se litigant in articulating [their] theory of the case and in introducing evidence in support of that theory.”²¹⁷ This would mirror the fact that “[a]n administrative law judge in federal, state, and municipal administrative fora has an affirmative duty to assist a pro se claimant [to] develop [their] case.”²¹⁸ This bears resemblance to an inquisitorial model of justice. While reformation of the adversarial model into the inquisitorial model is not herein suggested, it must be recognized that “defenses of the adversarial system against incursions of inquisitorial-based reforms are rooted in the adversarial system’s presumption that a zealous lawyer will

213. *Pro Bono Counsel Plan*, U.S. SECOND CIR., https://www.ca2.uscourts.gov/clerk/attorneys/pro_bono_counsel_plan.html (Jan. 11, 2012).

214. For an example of an appointment of pro bono counsel in the Ninth Circuit, see Order, *Volpicelli v. United States*, 777 F.3d 1042 (9th Cir. 2015) (No. 12-15029), where the court assigned Brian Goldman as counsel.

215. *Programs - Court of Federal Claims Bar Association*, THE VETERANS CONSORTIUM PRO BONO PROGRAM, <https://www.vetsprobono.org/about/> (last visited Apr. 14, 2022).

216. *Pro Bono / Attorney Referral Pilot Program*, U.S. FED. CL. BAR ASS’N, <https://cfcbbar.org/programs/#1636952897484-08c4f6f2-75c6> (last visited Nov. 11, 2022).

217. Baldacci, *supra* note 210, at 688.

218. *Id.* at 689.

represent each side in a case.”²¹⁹ In many cases, like pro se cases in the Tax Court, that is simply not true.

Not having zealous representation makes a difference, and that difference is well-recognized by the system. Studies have found that a represented taxpayer is nearly twice as likely to receive a positive outcome than an unrepresented taxpayer in a dispute with the IRS, both in administrative proceedings and in the Tax Court.²²⁰ In 2010, nearly one thousand state-level trial judges were asked by the American Bar Association about their experience with unrepresented parties, and the results paint a clear picture. “Ninety-four percent stated that unrepresented parties fail to ‘present necessary evidence’; eighty-nine percent said they suffer from ‘procedural errors’; eighty-five percent said they fail to effectively examine witnesses; and eighty-one percent noted they are unable to object to improper evidence offered by an opponent.”²²¹ Not all of these concerns are acutely relevant to the Tax Court context, but the underlying message is clear: not having zealous advocacy on one side of a case creates an imbalance that throws off the adversarial system. This is a concern that many seek to address across the judicial system.

B. LITCs, Amicus Briefs, and Pro Se Petitioners

Low Income Tax Clinics are no stranger to the filing of amicus briefs on behalf of parties in tax matters. Over the past two years, the Low Income Tax Clinic at Harvard Law School filed amicus briefs on behalf of the Center for Taxpayer Rights at all three federal court levels.²²² It filed amicus briefs with the Supreme Court in *CIC Services v. Internal Revenue Service*;²²³ *Northern California Small Business Assistants, Inc., v. Commissioner*;²²⁴ and *Boechler v. Commissioner*.²²⁵ In *CIC Services* and *Boechler*, it filed amicus briefs at both the certiorari and merits stages of the case.²²⁶ It filed amicus briefs in the Second Circuit in *Castillo v. Commissioner of Internal Revenue* and in the Ninth Circuit in

219. *Id.* at 690.

220. See 2007 I.R.S., NAT’L TAXPAYER ADVOC. ANN. REP. TO CONG. 108-09 [hereinafter 2007 NAT’L TAXPAYER ADVOCATE REPORT]; see also Janene R. Finley & Allan Karnes, *An Empirical Study of the Effectiveness of Counsel in United States Tax Court Cases*, 16 J. AM. ACAD. BUS., no. 1, Sept. 2010, at 1, 7.

221. Jessica K. Steniberg, *Demand Side Reform in the Poor People’s Court*, 47 CONN. L. REV. 741, 755 (2015).

222. *Amicus Curiae Briefs*, CTR. FOR TAXPAYER RTS., <https://taxpayer-rights.org/amicus-briefs/> (last visited Jan. 16, 2022).

223. *Id.*

224. Brief of The Center for Taxpayer Rights as Amicus Curiae in Support of the Petitioner, *Northern California Small Bus. Assistants, Inc., v. Commissioner*, 141 S. Ct. 2598 (2021) (No. 20-1031).

225. Brief of The Center for Taxpayer Rights as Amicus Curiae in Support of Petitioner, *Boechler, P.C., v. Commissioner*, 142 S. Ct. 1493 (2022) (No. 20-1472).

226. *Id.*; *Amicus Curiae Briefs*, *supra* note 223.

Jacobs v. Commissioner and *Jones v. Commissioner*.²²⁷ It filed an amicus brief with the District Court for the District of Columbia in *Silver v. IRS* and with the Northern District of California in the case of *Scholl v. Mnuchin*.²²⁸ The Clinic also filed an amicus brief in the Tax Court case of *LaRosa v. Commissioner*.²²⁹ None of these cases involved a pro se petitioner, but all involved issues of importance to the low income taxpayer community in one way or another.

Often, clinics will look for active cases that may set future precedent and will submit an amicus brief to make a pro-taxpayer argument. Many times, the petitioner in these cases has representation, or the clinic will represent them if they do not. However, cases wherein the petitioner does not have representation would be even more impacted by the submission of an amicus brief in support of the taxpayer's argument.

From 2018 through the beginning of 2021, there were only three precedential opinions in pro se cases.²³⁰ While this was a smaller number than suggested by the historical trends, the slightly higher number of pro se precedential opinions in other years should not present a burden for the Tax Court to reach out to an established partner or network of partners that file amicus briefs to garner support for the petitioner's argument. The Tax Court has natural partners for this kind of system, and such a system may mirror courts like the Connecticut Supreme Court and their system of recordkeeping and notification to potential amici. Some natural partners for such a system are Low Income Tax Clinics within law schools, including the LITC at Harvard Law School, which currently files amicus briefs on behalf of the Center for Taxpayer Rights. In addition to the clinic at Harvard, several other academic clinics have filed amicus briefs or otherwise pursued impact cases into the circuit courts, including the clinics at Georgia State Law School, Villanova Law School, Gonzaga Law School, Lewis and Clark Law School, University of Minnesota Law School, and Fordham Law School. Another natural partner is the American College of Tax Counsel, which

227. *Amicus Curiae Briefs, supra* note 223; Brief Amicus Curiae of Center for Taxpayer Rights as Amicus Curiae in Support of Appellant and Vacatur, *Jacobs v. Commissioner*, No. 21-71211, 2022 WL 16707186 (9th Cir. Dec. 2, 2021); Amicus Brief of the Center for Taxpayer Rights and the Federal Tax Clinic at the Legal Services Center of Harvard Law School in Support of the Appellant, *Jones v. Commissioner*, No. 20-70013 (9th Cir. Mar. 29, 2021).

228. *Amicus Curiae Briefs, supra* note 222; Memorandum of Law of Amicus Curiae Center for Taxpayer Rights in Support of the Plaintiffs, *Scholl v. Mnuchin*, 494 F. Supp. 3d 661 (N.D. Cal. 2020) (No. 20-cv-05309).

229. Amicus Brief of the Ctr. for Taxpayer Rts. & Fed. Tax Clinic at the Legal Servs. Ctr. of Harvard L. Sch. in Support of the Petitioner, *LaRosa v. Commissioner*, No. 10164-20 (T.C. June 21, 2021) (No. 19).

230. *See infra* Table 3. Note that from February to December 2021, possibly due to the effects of the pandemic and the resulting changes to the Tax Court schedule, processes, and the broader economic downturn, there were seven precedential pro se opinions. *See infra* Table 5, for a list of the precedential opinions in each year since the Tax Court became an Article 1 court.

has become a regular filer of amicus briefs in the last several years²³¹ and which has recently adopted guidelines for filing such briefs.²³²

C. Why the Haves Come Out Ahead and Impact on Precedent

In a recent article, Susannah Tahk takes on somewhat of the opposite issue raised in this article.²³³ She looks at the impact of decisions by primarily studying cases in which taxpayers have representation, pro se taxpayers, and how the decisions in the represented cases benefit pro se taxpayers. As part of her scholarship, she examines the literature regarding “the haves and have nots” in the context of litigation.²³⁴ She centers her discussion on an article written by Marc Galanter.²³⁵ The article points out that “haves” do not approach issues seeking a one-shot victory no matter what the facts are, but instead play a long game by seeking to establish and build on precedent.²³⁶ The IRS follows that strategy, as do some very well-heeled private tax litigants but, with some rare exceptions, not low-income taxpayers and certainly not pro se taxpayers.²³⁷

Galanter’s scholarship focuses on effective litigation strategy.²³⁸ To effectively litigate, the plaintiff or the defendant must focus not on the immediate case but on the goal of litigation. If the goal of litigation seeks only to win the current case, it loses perspective and the opportunity to impact a broader victory.²³⁹ Pro se taxpayers essentially only look at their case.²⁴⁰ They do not have a network of other possible litigants with the same issue and lack the legal guidance to strategically bring the best case forward in order to advance the broader cause.²⁴¹ For each pro se litigant, the cause is their own desire not to owe the taxes at issue in the Tax Court case immediately before them.²⁴² Generally, they have no idea how their case fits into a broader group of cases and no basis for concerning themselves about the broader group.²⁴³

231. *Amicus Briefs Filed by the American College of Tax Counsel*, AM. COLL. OF TAX COUNS., https://www.actconline.org/wp-content/uploads/2022/04/ACTC-Amicus-Briefs_list20220412.pdf, (Apr. 8, 2022).

232. ACTC Amicus Brief Policy, AM. COLL. OF TAX COUNS., https://www.actconline.org/wp-content/uploads/2021/07/ACTC_Amicus_Committee_Policy_Statement_2021.pdf, (last visited Nov. 11, 2022).

233. Tahk, *supra* note 43, at 657–58.

234. *Id.*

235. *Id.* at 664.

236. Marc Galanter, *Why the “Haves” Come out Ahead: Speculations on the Limits of Legal Change*, 9 L. & Soc’y REV. 95, 101 (1974).

237. *Id.* at 100–01, 149.

238. *See id.* at 97–100.

239. *Id.* at 100.

240. *Id.*

241. *Id.* at 101–02.

242. *See Galanter, supra* note 237, at 100.

243. *See id.*

Most, but not all, represented taxpayers in Tax Court cases fall into the same circumstance as pro se taxpayers. Their eyes focus on winning the specific case involving them and not a broader strategic goal. Occasionally, a represented taxpayer will participate as part of a group seeking to advance the best cases in order to affect a strategic goal. In tax cases, this presents difficulties unless the taxpayers have significant resources and motivation. The most likely groups to engage in this type of strategic litigation are large corporations with a common issue or wealthy individuals with a specific issue.²⁴⁴ Typically, this type of strategic litigation on the taxpayer side might also involve a situation in which a small group of well-organized tax controversy attorneys control the issue or almost all of the issue.

Less common, though possible, is an effort by LITCs to control an issue. To some degree this occurred in the *Lantz* cases involving the IRC section 6015(f) regulations and the issue of Tax Court jurisdiction versus claims processing regarding the timing of the filing of petitions.²⁴⁵ This group, rather than pick and choose cases, engages more frequently in organizing information. It lacks the resources to buy off a weak litigant in order to allow a stronger litigant to move forward to a precedential opinion.²⁴⁶

On the government side, strategic litigation in tax cases occurs regularly.²⁴⁷ Chief Counsel, IRS national office employees in Procedure and Administration and in other divisions, as well as the Tax Section of the Department of Justice, monitor cases to make sure that the best cases move forward.²⁴⁸ This does not always occur at the Tax Court level

244. See *id.* at 98.

245. *Lantz v. Commissioner*, 132 T.C. 131 (2009), *rev'd*, 607 F.3d 479, 484 (7th Cir. 2010). Following the Tax Court's favorable decision in the *Lantz* case and the Seventh Circuit's reversal, clinicians around the country, led by Professor Carl Smith, who was then at the LITC at Cardozo Law School, began consulting each other to generate the best cases and best arguments before the circuit courts. See T. Keith Fogg, *History of Low-Income Taxpayer Clinics* 47 (Vill. Univ. Charles Widger Sch. L., Working Paper No. 177, 2013), <https://digitalcommons.law.villanova.edu/wps/art177/>. In a similar manner, Professor Smith worked with the Harvard Tax Clinic after the Tax Court's decision in *Guralnik v. Commissioner*, 146 T.C. 230 (2016) (en banc), to find the right cases with which to challenge the ruling that the time period for filing in Tax Court was jurisdictional, *id.* at 232. This effort led through several circuits and eventually to the Supreme Court in *Boechler v. Commissioner*, No. 18578-17L (T.C. Feb. 15, 2019) (order dismissing case for lack of jurisdiction) *aff'd*, 967 F.3d 760 (8th Cir. 2020), *reh'g denied* (Nov. 17, 2020), *rev'd*, 142 S. Ct. 1493 (2022).

246. The author, Keith Fogg, regularly participated in such decisions while working for the Internal Revenue Service, Office of Chief Counsel and has personal knowledge of the practice from the 30 years of working for that office. See Carl Smith, *Tax Court Jurisdiction in Late-Filed Deficiency Cases*, PROCEDURALLY TAXING (Apr. 17, 2020), <https://procedurallytaxing.com/tax-court-jurisdiction-in-late-filed-deficiency-cases/>, for a description of how the Office of Chief Counsel sought to influence litigation of the cases hand-picked by the tax clinic at Harvard for litigation on the jurisdictional issue discussed in the preceding footnote.

247. *Id.*

248. Keith Fogg, *Room of Lies*, PROCEDURALLY TAXING (Aug. 6, 2015), <https://procedurallytaxing.com/the-room-of-lies/>; Keith Fogg, *Room of Lies Part 2*, PROCEDURALLY TAXING (Aug. 7, 2015), <https://procedurallytaxing.com/the-room-of-lies-part-2/>.

if the national office employees are unaware of a case and its possible broader implications but always occurs at the appellate level and occurs at the Tax Court level once an issue surfaces. Because the government can pick and choose which cases to defend and which to concede, it can position cases with the best facts and, perhaps, the weakest representation to move forward. This allows it to shape outcomes with an efficiency not possible for any but the most connected and well-heeled petitioners.

Professor Galanter noted several factors that give the “haves” an advantage in using litigation to shape the law. His analysis leads to the conclusion that occasional litigants are much less likely to create favorable precedent than repeat players. He describes a repeat player as “a unit which has had and anticipates repeated litigation, which has low stakes in the outcome of any one case, and which has the resources to pursue its long-run interests.”²⁴⁹ Professor Tahk has an extensive discussion of this research in her article.²⁵⁰

D. Low Resourced Litigants

Pro se taxpayers in Tax Court need not be poor, nor is the group necessarily undereducated, since some cases do not have enough at issue to warrant the hiring of an attorney and a number of pro se litigants have excellent verbal and written skills. Nonetheless, almost all pro se taxpayers meet the definition of low-resourced litigants. As a group they do not have the legal or the organizational resources to pick and choose cases. Each pro se litigant simply moves forward with their own case, making the best arguments with respect to their case that each has the capabilities to make.

Professor Tahk cites to several studies of low resourced litigants.²⁵¹ These studies provide reasons for and documentation of a well-known phenomenon, viz., that pro se litigants lose most of the time and lose more often than represented litigants.²⁵² Professor Tahk’s article and the resources it cites provide details of the challenges that pro se litigants encounter and the outcomes resulting from those challenges.²⁵³ This paper does not seek to focus on the win/loss rate of pro se litigants or the reasons for that rate, but focuses on the impact of precedential cases decided after litigation by someone acting pro se. Just

249. Galanter, *supra* note 237, at 98.

250. Tahk, *supra* note 43, at 673–74.

251. *Id.* at 664–65, 665 n.61.

252. See Rebecca L. Sandefur, *The Impact of Counsel: An Analysis of Empirical Evidence*, 9 SEATTLE J. SOC. JUST. 51, 70 (2010) (collecting data from 12 studies of pro se outcomes which demonstrated that representation increased the likelihood of success by 1.19 times to 13.79 times when compared to the likely outcome of the pro se litigant); 2022 I.R.S., NAT’L TAXPAYER ADVOC. ANN. REP. TO CONG. 194 (2021) [hereinafter 2022 NAT’L TAXPAYER ADVOC. REPORT]. See also Lederman & Hrungr, *supra* note 12, at 1257.

253. Tahk, *supra* note 43, at 667–69.

as pro se litigants win some cases generally, they also win some precedential cases; however, precedential cases in which taxpayers represent themselves put pressure on the system for the same reasons documented in the literature demonstrating why pro se taxpayers have a much higher likelihood of losing than represented parties.²⁵⁴ There are also racial disparity issues with pro se taxpayers.²⁵⁵

Professor Tahk identifies and discusses five main reasons why pro se litigants lose at a higher rate than represented parties.²⁵⁶ The reasons she details are lack of substantive expertise, lack of procedural expertise, lack of strategic expertise, bad cases, and negative stereotyping.²⁵⁷ Of these characteristics, the lack of substantive expertise creates the most problems for pro se litigants in precedential Tax Court cases. While the other bases may impact the outcome of a Tax Court case just like a case in other court, the concern regarding negative precedent set by pro se litigants stems primarily from their inability to craft the best arguments on an issue of first impression in the Tax Court. As Professor Tahk points out in the concluding sentence in her paragraph on this specific problem, “[p]ro se litigants nearly always lack this knowledge [of legal theories, common law rules, statutes, doctrine, case law, and other content-based knowledge]. As a result, they have difficulty articulating their claims in legal terms and countering legal arguments made by the other side.”²⁵⁸

E. Precedent Deserts

In her article on Spillover Tax Precedent, Professor Tahk notes that low income taxpayers will almost never benefit from spillover litigation by well-represented litigants because those litigants do not have certain tax issues common among low income taxpayers such as disputes over the earned income tax credit.²⁵⁹ Earlier in her article she acknowledged that attorneys practicing at LITCs fill some of the gap here, but precedent deserts can still exist because clinics do not end up with certain issues or the issues get litigated as small tax cases that can never

254. See Victor D. Quintanilla, et al., *The Signaling Effect of Pro se Status*, 42 L. & SOC. INQUIRY 1091, 1091 (2017); Mitchell Levy, *Empirical Patterns of Pro Se Litigation in Federal District Courts*, 85 U. CHI. L. REV. 1819, 1820–21 (2018).

255. Professor Tahk points out that African Americans are 2.5 times more likely to file pro se. Tahk, *supra* note 43, at 668 (citing Amy Myrick, et al., *Race and Representation: Racial Disparities in Legal Representation for Employment Discrimination Plaintiffs*, 15 N. Y. UNIV. J. OF LEGIS. & PUB. POL’Y, 705, 715 n.31 (2012)). See also Sara Sternberg Greene, *Race, Class and Access to Civil Justice*, 101 IOWA L. REV. 1263, 1268 (2016); Tonya L. Brito, et al., *“I Do for My Kids:” Negotiating Race and Racial Inequality in Family Court*, 83 FORDHAM L. REV. 3027, 3029 (2015); Rebecca L. Sandefur, *Access to Civil Justice and Race, Class, and Gender Inequality*, 34 ANN. REV. SOCIO. 339, 346 (2008).

256. Tahk, *supra* note 43, at 670–72.

257. *Id.*

258. *Id.* at 670.

259. *Id.* at 703.

create precedent.²⁶⁰ Occasionally, a case in which petitioners normally select the small case procedure will move forward as a regular case with a pro se petitioner. This situation offers the Court the opportunity to create taxpayer-unfavorable precedent. That precedent would impact pro se and represented taxpayers, bringing the same issue to the Tax Court in future cases whether they choose the small tax case proceeding or the regular case proceeding. This also highlights the extreme danger that the choice of one litigant can have on many that follow. The decision to move forward as a regular case could have been made by a pro se litigant who chose not to seek the assistance of an LITC or whose income exceeds the guidelines.²⁶¹ Cases falling into the precedent deserts present especially important matters for which the Tax Court should seek outside counsel or amici since the likelihood of a well-represented taxpayer wandering into the issue is low.

VIII. CONCLUSION

This article does not seek to cure the problems present in pro se litigation with respect to the individual litigants. Rather it seeks to address a problem the system creates when it takes a pro se case and uses it to create precedent for future litigants. Future litigants, whether pro se or not, all suffer from bad precedent. For the same reasons that pro se litigants face a greater chance of losing their individual cases due to the many documented obstacles that present challenges to these litigants, the system and future litigants can become losers when a court, and specifically, for the purposes of this paper, the Tax Court, uses a pro se case to create precedent without hearing legal arguments, formed by knowledgeable lawyers, before deciding the precedential case.

The paper does not seek to criticize individual judges for not endeavoring to find the right answer when faced with a pro se litigant. Tax Court judges try hard to find the right answer, but to find the right answer they must do much of the research, since the pro se litigant generally will not have the resources to provide a cogent argument on their own behalf. This puts a strain not only on the individual judge seeking to render a decision but also on the system when the decision has precedential impact down the line. The process moves from being

260. The small tax case procedure was created in 1969 allowing Tax Court petitioners the opportunity for a relaxed proceeding which usually has somewhat relaxed rules of evidence and no post-trial briefs. Cases tried under this procedure cannot be precedential by statute. I.R.C. § 7463(b). See T.C. R. PRAC. & P. 170-74.

261. Almost all LITCs operate by receiving a grant from the IRS governed by I.R.C. § 7526 which limits the LITC to taking 90% of its cases from clients below 250% of the poverty level. Some LITCs operate with additional restrictions on income and assets placed upon them by the provisions governing legal services organizations. These rules can cause a clinic to turn away a prospective client because of clinic funding even if the prospective client has a potentially precedent-setting case. 45 C.F.R. § 1611.3(d)(1).

adversarial to a de facto inquisitorial process. The system was not built for this.

The Tax Court resolves hundreds of cases each year through some form of decision, but only a small portion of those become precedent, as designated by the Court, for future taxpayer controversies. As discussed above, the Court itself chooses which cases become precedent and which do not. The rarity of precedential opinions gives those that do get published as precedent an outsized impact. Because of the relatively small number of precedential opinions and their importance in the scheme of *stare decisis*, a need exists that such cases receive zealous advocacy—on both sides. While it is a step too far to request a rule that the Tax Court not use *pro se* cases for precedential opinions, it is not a huge ask to request or require the appointment of a *pro bono* panel member to assist the taxpayer in filing a brief or to recruit an *amicus* brief filing on the petitioner's side for *pro se* cases that the Tax Court chooses to be precedential. Low Income Tax Clinics together with local and state bar organizations can aid in such an endeavor, and many indeed already file *amicus* briefs in cases important to low income taxpayers. The impact of such assistance could make a difference not only for the taxpayer before the Court at that moment but also for future taxpayers whose outcomes might otherwise be unduly influenced by a decision made in an unbalanced system.

IX. APPENDIX

Table 1: Case Types from the Tax Court from January 2020 to January 2021

Source: Westlaw

Title	Filed Date	Citation
Magana v. Commissioner of Internal Revenue	10-Feb-20	T.C. Summ.Op. 2020-9
Dunlap v. Commissioner of Internal Revenue	18-Feb-20	T.C. Summ.Op. 2020-10
James v. Commissioner of Internal Revenue	27-Feb-20	T.C. Summ.Op. 2020-11
Liu v. Commissioner of Internal Revenue	5-Mar-20	T.C. Memo. 2020-31
Do Wong v. Commissioner of Internal Revenue	5-Mar-20	T.C. Memo. 2020-32
Dung Le v. Commissioner of Internal Revenue	26-Feb-20	T.C. Memo. 2020-27
Benton v. Commissioner of Internal Revenue	11-Mar-20	T.C. Summ.Op. 2020-12
Crandall v. Commissioner of Internal Revenue	9-Apr-20	T.C. Summ.Op. 2020-13
Laue v. Commissioner of Internal Revenue	20-Apr-20	T.C. Summ.Op. 2020-14
Patrick's Payroll Services, Inc. v. Commissioner of Internal Revenue	14-Apr-20	T.C. Memo. 2020-47
Bishop v. Commissioner of Internal Revenue	17-Mar-20	T.C. Memo. 2020-36
Serrano v. Commissioner of Internal Revenue	20-May-20	T.C. Summ.Op. 2020-15
Goldberg v. Commissioner of Internal Revenue	2-Apr-20	T.C. Memo. 2020-38
Cline v. Commissioner of Internal Revenue	16-Mar-20	T.C. Memo. 2020-35
Winslow v. Commissioner of Internal Revenue	3-Aug-20	T.C. Summ.Op. 2020-22
Bowers v. Commissioner of Internal Revenue	16-Jun-20	T.C. Summ.Op. 2020-17
Pilyavsky v. Commissioner of Internal Revenue	2-Jul-20	T.C. Summ.Op. 2020-20
Beckett v. Commissioner of Internal Revenue	1-Jul-20	T.C. Summ.Op. 2020-19
Kansky v. Commissioner of Internal Revenue	13-Apr-20	T.C. Memo. 2020-43
Campbell v. Commissioner of Internal Revenue	7-Apr-20	T.C. Memo. 2020-41
Estate of Moore v. Commissioner of Internal Revenue	7-Apr-20	T.C. Memo. 2020-40
Hakkak v. Commissioner of Internal Revenue	13-Apr-20	T.C. Memo. 2020-46
Pinkston v. Commissioner of Internal Revenue	13-Apr-20	T.C. Memo. 2020-44
Shepherd v. Commissioner of Internal Revenue	13-Apr-20	T.C. Memo. 2020-45
Choong Koh v. Commissioner of Internal Revenue	4-Jun-20	T.C. Memo. 2020-77
Belair Woods, LLC v. Commissioner of Internal Revenue	22-Jul-20	T.C. Memo. 2020-112
Frantz v. Commissioner of Internal Revenue	19-May-20	T.C. Memo. 2020-64
Littlejohn v. Commissioner of Internal Revenue	9-Apr-20	T.C. Memo. 2020-42
Collins v. Commissioner of Internal Revenue	23-Apr-20	T.C. Memo. 2020-50
Peacock v. Commissioner of Internal Revenue	19-May-20	T.C. Memo. 2020-63
Nimmo v. Commissioner of Internal Revenue	1-Jun-20	T.C. Memo. 2020-72
Brannan Sand & Gravel Co., LLC v. Commissioner of Internal Revenue	4-Jun-20	T.C. Memo. 2020-76
Estate of Bolles v. Commissioner of Internal Revenue	1-Jun-20	T.C. Memo. 2020-71
Richlin v. Commissioner of Internal Revenue	18-May-20	T.C. Memo. 2020-60
Waszczuk v. Commissioner of Internal Revenue	4-Jun-20	T.C. Memo. 2020-75
Joseph v. Commissioner of Internal Revenue	19-May-20	T.C. Memo. 2020-65
Thoma v. Commissioner of Internal Revenue	27-May-20	T.C. Memo. 2020-67
Nelson v. Commissioner of Internal Revenue	10-Jun-20	T.C. Memo. 2020-81
Strashny v. Commissioner of Internal Revenue	11-Jun-20	T.C. Memo. 2020-82
Johnson v. Commissioner of Internal Revenue	8-Jun-20	T.C. Memo. 2020-79
Lambert v. Commissioner of Internal Revenue	6-May-20	T.C. Memo. 2020-53
Oakbrook Land Holdings, LLC v. Commissioner of Internal Revenue	12-May-20	T.C. Memo. 2020-54
Engle v. Commissioner of Internal Revenue	28-May-20	T.C. Memo. 2020-69
Richmond Patients Group v. Commissioner of Internal Revenue	4-May-20	T.C. Memo. 2020-52
Cosio v. Commissioner of Internal Revenue	18-Jun-20	T.C. Memo. 2020-90
Bidzimou v. Commissioner of Internal Revenue	15-Jun-20	T.C. Memo. 2020-85
Lumpkin One Five Six, LLC v. Commissioner of Internal Revenue	23-Jun-20	T.C. Memo. 2020-94

Whirlpool Financial Corporation & Consolidated Subsidiaries v. Commissioner of Internal Revenue	5-May-20	154 T.C. No. 9
Dennis v. Commissioner of Internal Revenue	1-Jul-20	T.C. Memo. 2020-98
Lumpkin HC, LLC v. Commissioner of Internal Revenue	23-Jun-20	T.C. Memo. 2020-95
Neal v. Commissioner of Internal Revenue	05-Oct-20	T.C. Memo. 2020-138
Brzyski v. Commissioner of Internal Revenue	27-Aug-20	T.C. Summ.Op. 2020-25
Sellers v. Commissioner of Internal Revenue	15-Jun-20	T.C. Memo. 2020-84
Reflection Resources, Inc. v. Commissioner of Internal Revenue	3-Aug-20	T.C. Memo. 2020-114
Thomas v. Commissioner of Internal Revenue	11-Mar-20	T.C. Memo. 2020-33
Minemyer v. Commissioner of Internal Revenue	1-Jul-20	T.C. Memo. 2020-99
Staples v. Commissioner of Internal Revenue	11-Mar-20	T.C. Memo. 2020-34
Duy Duc Nguyen v. Commissioner of Internal Revenue	30-Jun-20	T.C. Memo. 2020-97
Bethune v. Commissioner of Internal Revenue	30-Jun-20	T.C. Memo. 2020-96
Seril v. Commissioner of Internal Revenue	8-Jul-20	T.C. Memo. 2020-101
Elkins v. Commissioner of Internal Revenue	16-Jul-20	T.C. Memo. 2020-110
Oropeza v. Commissioner of Internal Revenue	21-Jul-20	T.C. Memo. 2020-111
Englewood Place, LLC v. Commissioner of Internal Revenue	9-Jul-20	T.C. Memo. 2020-105
Matzkin v. Commissioner of Internal Revenue	5-Aug-20	T.C. Memo. 2020-117
Rivas v. Commissioner of Internal Revenue	25-Aug-20	T.C. Memo. 2020-124
Savedoff v. Commissioner of Internal Revenue	31-Aug-20	T.C. Memo. 2020-125
Stevens v. Commissioner of Internal Revenue	6-Aug-20	T.C. Memo. 2020-118
Van Bemmelen v. Commissioner of Internal Revenue	27-Aug-20	155 T.C. No. 4
Whistleblower 21276-13W v. Commissioner of Internal Revenue	26-Aug-20	155 T.C. No. 2
Korean-American Senior Mutual Association, Inc. v. Commissioner of Internal Revenue	9-Sep-20	T.C. Memo. 2020-129
Friedel v. Commissioner of Internal Revenue	17-Sep-20	T.C. Memo. 2020-131
Damiani v. Commissioner of Internal Revenue	17-Sep-20	T.C. Memo. 2020-132
Patel v. Commissioner of Internal Revenue	22-Sep-20	T.C. Memo. 2020-133
Lakew v. Commissioner of Internal Revenue	4-Nov-20	T.C. Summ.Op. 2020-27
NCA Argyle LP v. Commissioner of Internal Revenue	13-May-20	T.C. Memo. 2020-56
Stevenson v. Commissioner of Internal Revenue	30-Sep-20	T.C. Memo. 2020-137
Worthington v. Commissioner of Internal Revenue	8-Oct-20	T.C. Memo. 2020-141
The Morning Star Packing Company, L.P. v. Commissioner of Internal Revenue	14-Oct-20	T.C. Memo. 2020-142
Coleman v. Commissioner of Internal Revenue	22-Oct-20	T.C. Memo. 2020-146
Oropeza v. Commissioner of Internal Revenue	13-Oct-20	155 T.C. No. 9
Swanberg v. Commissioner of Internal Revenue	25-Aug-20	T.C. Memo. 2020-123
The Coca-Cola Company & Subsidiaries v. Commissioner of Internal Revenue	18-Nov-20	155 T.C. No. 10
Sharma v. Commissioner of Internal Revenue	29-Oct-20	T.C. Memo. 2020-147
Watts v. Commissioner of Internal Revenue	15-Oct-20	T.C. Memo. 2020-144
Chadwick v. Commissioner of Internal Revenue	21-Jan-20	154 T.C. No. 5
Conard v. Commissioner of Internal Revenue	10-Mar-20	154 T.C. No. 6
Lander v. Commissioner of Internal Revenue	12-Mar-20	154 T.C. No. 7
Lewis v. Commissioner of Internal Revenue	8-Apr-20	154 T.C. No. 8
Aghadjanian v. Commissioner of Internal Revenue	16-Nov-20	T.C. Memo. 2020-155
Leith v. Commissioner of Internal Revenue	4-Nov-20	T.C. Memo. 2020-149
Kissling v. Commissioner of Internal Revenue	12-Nov-20	T.C. Memo. 2020-153
Padda v. Commissioner of Internal Revenue	16-Nov-20	T.C. Memo. 2020-154
Bruno v. Commissioner of Internal Revenue	16-Nov-20	T.C. Memo. 2020-156
Glade Creek Partners, LLC v. Commissioner of Internal Revenue	2-Nov-20	T.C. Memo. 2020-148

MICHAEL J. BOETTCHER AND KATHERINE H. BOETTCHER, Petitioners v. COMMISSIONER OF INTERNAL REVENUE, Respondent	12-Jan-21	T.C. Memo. 2021-4
Purdie v. Commissioner of Internal Revenue	21-Jan-20	T.C. Summ.Op. 2020-6
Reliable Computer Services, Inc. v. Commissioner of Internal Revenue	22-Jan-20	T.C. Summ.Op. 2020-7
Abubakr v. Commissioner of Internal Revenue	30-Jan-20	T.C. Summ.Op. 2020-8
Carter v. Commissioner of Internal Revenue	3-Feb-20	T.C. Memo. 2020-21
Bordelon v. Commissioner of Internal Revenue	20-Feb-20	T.C. Memo. 2020-26
Railroad Holdings, LLC v. Commissioner of Internal Revenue	5-Feb-20	T.C. Memo. 2020-22
Oakhill Woods, LLC v. Commissioner of Internal Revenue	13-Feb-20	T.C. Memo. 2020-24
Keels v. Commissioner of Internal Revenue	19-Feb-20	T.C. Memo. 2020-25
Pulcine v. Commissioner of Internal Revenue	2-Mar-20	T.C. Memo. 2020-29
Essner v. Commissioner of Internal Revenue	12-Feb-20	T.C. Memo. 2020-23
Isaacson v. Commissioner of Internal Revenue	23-Jan-20	T.C. Memo. 2020-17
Alber v. Commissioner of Internal Revenue	30-Jan-20	T.C. Memo. 2020-20
Northside Carting, Inc. v. Commissioner of Internal Revenue	23-Jan-20	T.C. Memo. 2020-18
Chang v. Commissioner of Internal Revenue	29-Jan-20	T.C. Memo. 2020-19
Manroe v. Commissioner of Internal Revenue	22-Jan-20	T.C. Memo. 2020-16
Grieve v. Commissioner of Internal Revenue	2-Mar-20	T.C. Memo. 2020-28
Sun River Financial Trust v. Commissioner of Internal Revenue	5-Mar-20	T.C. Memo. 2020-30
Biddle v. Commissioner of Internal Revenue	6-Apr-20	T.C. Memo. 2020-392
Aguilar v. Commissioner of Internal Revenue	26-May-20	T.C. Summ.Op. 2020-16
Francois v. Commissioner of Internal Revenue	30-Jun-20	T.C. Summ.Op. 2020-18
Yiu v. Commissioner of Internal Revenue	5-Aug-20	T.C. Summ.Op. 2020-23
Congregation Bais Yaakov v. Commissioner of Internal Revenue	22-Jul-20	T.C. Summ.Op. 2020-21
Etoty v. Commissioner of Internal Revenue	20-Apr-20	T.C. Memo. 2020-49
Pope v. Commissioner of Internal Revenue	18-May-20	T.C. Memo. 2020-62
Porporato v. Commissioner of Internal Revenue	18-Aug-20	T.C. Summ.Op. 2020-24
Nesbitt v. Commissioner of Internal Revenue	18-May-20	T.C. Memo. 2020-61
Williams v. Commissioner of Internal Revenue	16-Apr-20	T.C. Memo. 2020-48
Bridges v. Commissioner of Internal Revenue	27-Apr-20	T.C. Memo. 2020-51
Gluck v. Commissioner of Internal Revenue	26-May-20	T.C. Memo. 2020-66
Kirkley v. Commissioner of Internal Revenue	13-May-20	T.C. Memo. 2020-57
McCarthy v. Commissioner of Internal Revenue	3-Jun-20	T.C. Memo. 2020-74
Larkin v. Commissioner of Internal Revenue	28-May-20	T.C. Memo. 2020-70
Woodland Property Holdings, LLC v. Commissioner of Internal Revenue	13-May-20	T.C. Memo. 2020-55
Amanda Iris Gluck Irrevocable Trust v. Commissioner of Internal Revenue	26-May-20	154 T.C. No. 11
Davison v. Commissioner of Internal Revenue	14-May-20	T.C. Memo. 2020-58
Lemay v. Commissioner of Internal Revenue	14-May-20	T.C. Memo. 2020-59
Armstrong v. Commissioner of Internal Revenue	17-Sep-20	T.C. Summ.Op. 2020-26
Kroner v. Commissioner of Internal Revenue	1-Jun-20	T.C. Memo. 2020-73
Santos v. Commissioner of Internal Revenue	17-Jun-20	T.C. Memo. 2020-88
Lloyd v. Commissioner of Internal Revenue	22-Jun-20	T.C. Memo. 2020-92
Novoselsky v. Commissioner of Internal Revenue	28-May-20	T.C. Memo. 2020-68
Sage v. Commissioner of Internal Revenue	2-Jun-20	154 T.C. No. 12
Schwager v. Commissioner of Internal Revenue	15-Jun-20	T.C. Memo. 2020-83
Howe v. Commissioner of Internal Revenue	8-Jun-20	T.C. Memo. 2020-78
Moukhitdinov v. Commissioner of Internal Revenue	16-Jun-20	T.C. Memo. 2020-86
Flume v. Commissioner of Internal Revenue	9-Jun-20	T.C. Memo. 2020-80
Rogers v. Commissioner of Internal Revenue	18-Jun-20	T.C. Memo. 2020-91
Abrego v. Commissioner of Internal Revenue	16-Jun-20	T.C. Memo. 2020-87
Red Oak Estates, LLC v. Commissioner of Internal Revenue	4-Aug-20	T.C. Memo. 2020-116

Cottonwood Place, LLC v. Commissioner of Internal Revenue	4-Aug-20	T.C. Memo. 2020-115
Riverside Place, LLC v. Commissioner of Internal Revenue	9-Jul-20	T.C. Memo. 2020-103
Ruesch v. Commissioner of Internal Revenue	25-Jun-20	154 T.C. No. 13
Maple Landing, LLC v. Commissioner of Internal Revenue	9-Jul-20	T.C. Memo. 2020-104
Simpson v. Commissioner of Internal Revenue	7-Jul-20	T.C. Memo. 2020-100
Plateau Holdings, LLC v. Commissioner of Internal Revenue	23-Jun-20	T.C. Memo. 2020-93
Oakbrook Land Holdings, LLC v. Commissioner of Internal Revenue	12-May-20	154 T.C. No. 10
Hewitt v. Commissioner of Internal Revenue	17-Jun-20	T.C. Memo. 2020-89
Village at Effingham, LLC v. Commissioner of Internal Revenue	9-Jul-20	T.C. Memo. 2020-102
Dodson v. Commissioner of Internal Revenue	9-Jul-20	T.C. Memo. 2020-106
Biggs-Owens v. Commissioner of Internal Revenue	30-Jul-20	T.C. Memo. 2020-113
Duffy v. Commissioner of Internal Revenue	13-Jul-20	T.C. Memo. 2020-108
Smith Lake, LLC v. Commissioner of Internal Revenue	13-Jul-20	T.C. Memo. 2020-107
Weiderman v. Commissioner of Internal Revenue	15-Jul-20	T.C. Memo. 2020-109
Barnhill v. Commissioner of Internal Revenue	21-Jul-20	155 T.C. No. 1
Babu v. Commissioner of Internal Revenue	17-Aug-20	T.C. Memo. 2020-121
Emanouil v. Commissioner of Internal Revenue	17-Aug-20	T.C. Memo. 2020-120
Thompson v. Commissioner of Internal Revenue	31-Aug-20	155 T.C. No. 5
Brashear v. Commissioner of Internal Revenue	19-Aug-20	T.C. Memo. 2020-122
TGS-NOPEC Geophysical Company and Subsidiaries v. Commissioner of Internal Revenue	26-Aug-20	155 T.C. No. 3
Franklin v. Commissioner of Internal Revenue	3-Sep-20	T.C. Memo. 2020-127
Daichman v. Commissioner of Internal Revenue	31-Aug-20	T.C. Memo. 2020-126
Sham v. Commissioner of Internal Revenue	12-Aug-20	T.C. Memo. 2020-119
Dickinson v. Commissioner of Internal Revenue	3-Sep-20	T.C. Memo. 2020-128
Belanger v. Commissioner of Internal Revenue	10-Sep-20	T.C. Memo. 2020-130
Fowler v. Commissioner of Internal Revenue	9-Sep-20	155 T.C. No. 7
Sutherland v. Commissioner of Internal Revenue	8-Sep-20	155 T.C. No. 6
Robinson v. Commissioner of Internal Revenue	23-Sep-20	T.C. Memo. 2020-134
Deckard v. Commissioner of Internal Revenue	17-Sep-20	155 T.C. No. 8
Santillan v. Commissioner of Internal Revenue	9-Nov-20	T.C. Summ.Op. 2020-28
Doyle v. Commissioner of Internal Revenue	8-Oct-20	T.C. Memo. 2020-139
Lucero v. Commissioner of Internal Revenue	29-Sep-20	T.C. Memo. 2020-136
Spagnoletti v. Commissioner of Internal Revenue	8-Oct-20	T.C. Memo. 2020-140
Giambrone v. Commissioner of Internal Revenue	19-Oct-20	T.C. Memo. 2020-145
Neal v. Commissioner of Internal Revenue	5-Oct-20	T.C. Memo. 2020-138
McNamee v. Commissioner of Internal Revenue	18-Mar-20	T.C. Memo. 2020-37
Lashua v. Commissioner of Internal Revenue	9-Nov-20	T.C. Memo. 2020-151
Wienke v. Commissioner of Internal Revenue	14-Oct-20	T.C. Memo. 2020-143
Tung Dang v. Commissioner of Internal Revenue	9-Nov-20	T.C. Memo. 2020-150
Rajagopalan v. Commissioner of Internal Revenue	19-Nov-20	T.C. Memo. 2020-159
Cutting v. Commissioner of Internal Revenue	19-Nov-20	T.C. Memo. 2020-158
PATRICK S. KENNEDY, Petitioner v. COMMISSIONER OF INTERNAL REVENUE, Respondent	12-Jan-21	T.C. Memo. 2021-3
Ball v. Commissioner of Internal Revenue	10-Nov-20	T.C. Memo. 2020-152
Fakiris v. Commissioner of Internal Revenue	19-Nov-20	T.C. Memo. 2020-157
MICHAEL HOHL AND JENNIFER PARKER HOHL, Petitioners v. COMMISSIONER OF INTERNAL REVENUE, Respondent BRADEN B. BLAKE AND KRISTEN S. BLAKE, Petitioners v. COMMISSIONER OF INTERNAL REVENUE, Respondent	13-Jan-21	T.C. Memo. 2021-5
Kelley v. Commissioner of Internal Revenue	11-Jan-21	T.C. Memo. 2021-2

Tangel v. Commissioner of Internal Revenue	11-Jan-21	T.C. Memo. 2021-1
AARON G. FILLER, Petitioner v. COMMISSIONER OF INTERNAL REVENUE, Respondent	13-Jan-21	T.C. Memo. 2021-6
MEREDITH YVETTE JAMES, Petitioner v. COMMISSIONER OF INTERNAL REVENUE, Respondent	13-Jan-21	T.C. Memo. 2021-7
WILEY RAMEY, Petitioner v. COMMISSIONER OF INTERNAL REVENUE, Respondent	14-Jan-21	156 T.C. No. 1

Table 2: U.S. Courts of Appeals--Pro Se Cases Commenced and Terminated From 2009-2019

Year	Cases Commenced	Pro Se at Filing	Terminated Cases	Pro Se at Termination
2009	57740	27805	60508	28879
2010	55992	27209	59526	29110
2011	55126	27143	57357	29178
2012	57501	29075	57570	29866
2013	56475	28800	58393	31136
2014	54988	28047	55216	29199
2015	52698	26883	53213	27779
2016	60,357	31,609	57,744	31,068
2017	50,506	25,366	54,347	28,976
2018	49,276	24,680	50,428	26,476
2019	48,486	23,728	47,889	24,851

Table 3: Case Types of Pro Se Tax Court Petitioners from January 2018 to January 2021

Title	Filed Date	Citation
Preston v. Commissioner of Internal Revenue	29-Jan-18	T.C. Summ.Op. 2018-4
Devaleria v. Commissioner of Internal Revenue	31-Jan-18	T.C. Summ.Op. 2018-5
McCroly v. Commissioner of Internal Revenue	31-Jan-18	T.C. Memo. 2018-12
Krantz v. Commissioner of Internal Revenue	14-Feb-18	T.C. Memo. 2018-17
Allen v. Commissioner of Internal Revenue	6-Mar-18	T.C. Memo. 2018-24
Franco v. Commissioner of Internal Revenue	6-Mar-18	2018 WL 1181754
Harris v. Commissioner of Internal Revenue	13-Mar-18	T.C. Summ.Op. 2018-12
Larson v. Commissioner of Internal Revenue	19-Mar-18	T.C. Memo. 2018-30
Jahangirian v. Commissioner of Internal Revenue	20-Mar-18	T.C. Summ.Op. 2018-14
Oliver v. Commissioner of Internal Revenue	3-Apr-18	T.C. Summ.Op. 2018-16
Vallejo v. Commissioner of Internal Revenue	3-Apr-18	T.C. Memo. 2018-39
Vest v. Commissioner of Internal Revenue	4-Apr-18	T.C. Summ.Op. 2018-18
Moreno v. Commissioner of Internal Revenue	5-Apr-18	T.C. Summ.Op. 2018-19
Velez v. Commissioner of Internal Revenue	5-Apr-18	T.C. Memo. 2018-46
Jennette v. Commissioner of Internal Revenue	5-Apr-18	T.C. Memo. 2018-47
Suwareh v. Commissioner of Internal Revenue	16-Apr-18	T.C. Summ.Op. 2018-23
Mack v. Commissioner of Internal Revenue	18-Apr-18	T.C. Memo. 2018-54
Gervais v. Commissioner of Internal Revenue	6-Jun-18	T.C. Summ.Op. 2018-30
Gallagher v. Commissioner of Internal Revenue	6-Jun-18	T.C. Memo. 2018-77
Nelson v. Commissioner of Internal Revenue	28-Jun-18	T.C. Memo. 2018-95
Williams v. Commissioner of Internal Revenue	3-Jul-18	151 T.C. No. 1
Najafpir v. Commissioner of Internal Revenue	3-Jul-18	T.C. Memo. 2018-103
Jusino v. Commissioner of Internal Revenue	19-Jul-18	T.C. Memo. 2018-112
Grainger v. Commissioner of Internal Revenue	30-Jul-18	T.C. Memo. 2018-117

Randall v. Commissioner of Internal Revenue	6-Aug-18	T.C. Memo. 2018-123
Scott v. Commissioner of Internal Revenue	22-Aug-18	T.C. Memo. 2018-133
Scott v. Commissioner of Internal Revenue	22-Aug-18	T.C. Memo. 2018-134
Singh v. Commissioner of Internal Revenue	22-Aug-18	T.C. Memo. 2018-132
Evensen v. Commissioner of Internal Revenue	29-Aug-18	T.C. Memo. 2018-141
Smethers v. Commissioner of Internal Revenue	29-Aug-18	T.C. Memo. 2018-140
Bery v. Commissioner of Internal Revenue	4-Sep-18	T.C. Memo. 2018-143
Vanderhal v. Commissioner of Internal Revenue	5-Sep-18	T.C. Summ.Op. 2018-41
Venable v. Commissioner of Internal Revenue	10-Sep-18	T.C. Memo. 2018-144
Ence v. Commissioner of Internal Revenue	11-Sep-18	T.C. Memo. 2018-151
Hartmann v. Commissioner of Internal Revenue	17-Sep-18	T.C. Memo. 2018-154
O'Kagu v. Commissioner of Internal Revenue	19-Sep-18	151 T.C. No. 6
de Sylva v. Commissioner of Internal Revenue	27-Sep-18	T.C. Memo. 2018-165
Hagos v. Commissioner of Internal Revenue	1-Oct-18	T.C. Memo. 2018-166
O'Connor v. Commissioner of Internal Revenue	4-Oct-18	T.C. Summ.Op. 2018-48
Castaneda v. Commissioner of Internal Revenue	16-Oct-18	T.C. Memo. 2018-173
Schorse v. Commissioner of Internal Revenue	22-Oct-18	T.C. Memo. 2018-176
Perales v. Commissioner of Internal Revenue	23-Oct-18	T.C. Memo. 2018-177
Stout v. Commissioner of Internal Revenue	24-Oct-18	T.C. Memo. 2018-179
Curtis v. Commissioner of Internal Revenue	1-Nov-18	T.C. Summ.Op. 2018-50
Dancausa Valle v. Commissioner of Internal Revenue	5-Nov-18	T.C. Summ.Op. 2018-51
Gianulis v. Commissioner of Internal Revenue	5-Nov-18	T.C. Memo. 2018-187
Davis v. Commissioner of Internal Revenue	3-Dec-18	T.C. Memo. 2018-197
Akay v. Commissioner of Internal Revenue	3-Dec-18	T.C. Summ.Op. 2018-54
Hassan v. Commissioner of Internal Revenue	6-Dec-18	T.C. Summ.Op. 2018-56
Kaviro v. Commissioner of Internal Revenue	6-Dec-18	T.C. Summ.Op. 2018-57
Sholes v. Commissioner of Internal Revenue	17-Dec-18	T.C. Memo. 2018-203
Steinhardt v. Commissioner of Internal Revenue	18-Dec-18	T.C. Memo. 2018-206
Burnett v. Commissioner of Internal Revenue	18-Dec-18	T.C. Memo. 2018-204
Heydon-Grauss v. Commissioner of Internal Revenue	20-Dec-18	T.C. Memo. 2018-209
Lim v. Commissioner of Internal Revenue	26-Dec-18	T.C. Summ.Op. 2018-59
Ransom v. Commissioner of Internal Revenue	26-Dec-18	T.C. Memo. 2018-211
Terrell v. Commissioner of Internal Revenue	27-Dec-18	T.C. Memo. 2018-216
Samaniego v. Commissioner of Internal Revenue	6-Feb-19	T.C. Memo. 2019-7
Grumbkow v. Commissioner of Internal Revenue	28-Feb-19	T.C. Memo. 2019-13
Jordan v. Commissioner of Internal Revenue	4-Mar-19	T.C. Memo. 2019-15
Wesley v. Commissioner of Internal Revenue	14-Mar-19	T.C. Memo. 2019-18
Henry v. Commissioner of Internal Revenue	27-Mar-19	T.C. Memo. 2019-24
McMurtry v. Commissioner of Internal Revenue	27-Mar-19	T.C. Memo. 2019-22
Arseo v. Commissioner of Internal Revenue	2-May-19	T.C. Summ.Op. 2019-8
Goosby v. Commissioner of Internal Revenue	9-May-19	T.C. Memo. 2019-49
Martin v. Commissioner of Internal Revenue	15-May-19	T.C. Memo. 2019-51
Millen v. Commissioner of Internal Revenue	30-May-19	T.C. Memo. 2019-60
McCree v. Commissioner of Internal Revenue	6-Jun-19	T.C. Memo. 2019-67
Fakurnejad v. Commissioner of Internal Revenue	10-Jun-19	T.C. Memo. 2019-70
Cooney v. Commissioner of Internal Revenue	11-Jun-19	T.C. Summ.Op. 2019-10
Staples v. Commissioner of Internal Revenue	13-Jun-19	T.C. Memo. 2019-75
Esteen v. Commissioner of Internal Revenue	2-Jul-19	T.C. Summ.Op. 2019-13
Catlett v. Commissioner of Internal Revenue	11-Jul-19	T.C. Memo. 2019-86
Ogden v. Commissioner of Internal Revenue	15-Jul-19	T.C. Memo. 2019-88
Demar v. Commissioner of Internal Revenue	18-Jul-19	T.C. Memo. 2019-91
Jun Wu v. Commissioner of Internal Revenue	25-Jul-19	T.C. Summ.Op. 2019-17
Doucoure v. Commissioner of Internal Revenue	12-Aug-19	T.C. Summ.Op. 2019-20
Hairston v. Commissioner	20-Aug-19	T.C. Memo. 2019-104
Faust v. Commissioner of Internal Revenue	20-Aug-19	T.C. Memo. 2019-105
Nzedu v. Commissioner of Internal Revenue	21-Aug-19	T.C. Summ.Op. 2019-22
Gutierrez v. Commissioner of Internal Revenue	22-Aug-19	T.C. Summ.Op. 2019-23
Dodd v. Commissioner of Internal Revenue	22-Aug-19	T.C. Memo. 2019-107

Thomas v. Commissioner of Internal Revenue	26-Aug-19	T.C. Summ.Op. 2019-24
Hatte v. Commissioner of Internal Revenue	28-Aug-19	T.C. Memo. 2019-109
Rosenberg v. Commissioner of Internal Revenue	19-Sep-19	T.C. Memo. 2019-124
Cambria v. Commissioner of Internal Revenue	30-Sep-19	T.C. Summ.Op. 2019-28
Katusha v. Commissioner of Internal Revenue	10-Oct-19	T.C. Summ.Op. 2019-31
Kruja v. Commissioner of Internal Revenue	15-Oct-19	T.C. Memo. 2019-136
Murphy v. Commissioner of Internal Revenue	15-Oct-19	T.C. Summ.Op. 2019-32
Apruzzese v. Commissioner of Internal Revenue	21-Oct-19	T.C. Memo. 2019-141
Ghadiri-Asli v. Commissioner of Internal Revenue	23-Oct-19	T.C. Memo. 2019-142
Kleinman v. Commissioner of Internal Revenue	31-Oct-19	T.C. Summ.Op. 2019-33
Blas v. Commissioner of Internal Revenue	18-Nov-19	T.C. Memo. 2019-152
Sullivan v. Commissioner of Internal Revenue	19-Nov-19	T.C. Memo. 2019-153
Worsham v. Commissioner of Internal Revenue	3-Dec-19	T.C. Memo. 2019-155
Biegalski v. Commissioner of Internal Revenue	3-Dec-19	T.C. Summ.Op. 2019-35
Banks v. Commissioner of Internal Revenue	19-Dec-19	T.C. Memo. 2019-166
Primus v. Commissioner of Internal Revenue	7-Jan-20	T.C. Summ.Op. 2020-2
Aviles v. Commissioner of Internal Revenue	15-Jan-20	T.C. Memo. 2020-12
Gambhir v. Commissioner of Internal Revenue	15-Jan-20	T.C. Summ.Op. 2020-4
Onyeani v. Commissioner of Internal Revenue	16-Jan-20	T.C. Memo. 2020-15
Purdie v. Commissioner of Internal Revenue	21-Jan-20	T.C. Summ.Op. 2020-6
Chang v. Commissioner of Internal Revenue	29-Jan-20	T.C. Memo. 2020-19
Magana v. Commissioner of Internal Revenue	10-Feb-20	T.C. Summ.Op. 2020-9
James v. Commissioner of Internal Revenue	27-Feb-20	T.C. Summ.Op. 2020-11
Pulcine v. Commissioner of Internal Revenue	2-Mar-20	T.C. Memo. 2020-29
Liu v. Commissioner of Internal Revenue	5-Mar-20	T.C. Memo. 2020-31
Do Wong v. Commissioner of Internal Revenue	5-Mar-20	T.C. Memo. 2020-32
Conard v. Commissioner of Internal Revenue	10-Mar-20	154 T.C. No. 6
Staples v. Commissioner of Internal Revenue	11-Mar-20	T.C. Memo. 2020-34
Biddle v. Commissioner of Internal Revenue	6-Apr-20	T.C. Memo. 2020-392
Crandall v. Commissioner of Internal Revenue	9-Apr-20	T.C. Summ.Op. 2020-13
Kansky v. Commissioner of Internal Revenue	13-Apr-20	T.C. Memo. 2020-43
Shepherd v. Commissioner of Internal Revenue	13-Apr-20	T.C. Memo. 2020-45
Etoty v. Commissioner of Internal Revenue	20-Apr-20	T.C. Memo. 2020-49
Serrano v. Commissioner of Internal Revenue	20-May-20	T.C. Summ.Op. 2020-15
Aguilar v. Commissioner of Internal Revenue	26-May-20	T.C. Summ.Op. 2020-16
Nimmo v. Commissioner of Internal Revenue	1-Jun-20	T.C. Memo. 2020-72
Waszczuk v. Commissioner of Internal Revenue	4-Jun-20	T.C. Memo. 2020-75
Bowers v. Commissioner of Internal Revenue	16-Jun-20	T.C. Summ.Op. 2020-17
Francois v. Commissioner of Internal Revenue	30-Jun-20	T.C. Summ.Op. 2020-18
Beckett v. Commissioner of Internal Revenue	1-Jul-20	T.C. Summ.Op. 2020-19
Minemyer v. Commissioner of Internal Revenue	1-Jul-20	T.C. Memo. 2020-99
Pilyavsky v. Commissioner of Internal Revenue	2-Jul-20	T.C. Summ.Op. 2020-20
Seril v. Commissioner of Internal Revenue	8-Jul-20	T.C. Memo. 2020-101
Winslow v. Commissioner of Internal Revenue	3-Aug-20	T.C. Summ.Op. 2020-22
Yiu v. Commissioner of Internal Revenue	5-Aug-20	T.C. Summ.Op. 2020-23
Rivas v. Commissioner of Internal Revenue	25-Aug-20	T.C. Memo. 2020-124
Swanberg v. Commissioner of Internal Revenue	25-Aug-20	T.C. Memo. 2020-123
Damiani v. Commissioner of Internal Revenue	17-Sep-20	T.C. Memo. 2020-132
Friedel v. Commissioner of Internal Revenue	17-Sep-20	T.C. Memo. 2020-131
Stevenson v. Commissioner of Internal Revenue	30-Sep-20	T.C. Memo. 2020-137
Leith v. Commissioner of Internal Revenue	4-Nov-20	T.C. Memo. 2020-149
Lashua v. Commissioner of Internal Revenue	9-Nov-20	T.C. Memo. 2020-151
Aghadjanian v. Commissioner of Internal Revenue	16-Nov-20	T.C. Memo. 2020-155
Kelley v. Commissioner of Internal Revenue	11-Jan-21	T.C. Memo. 2021-2
MEREDITH YVETTE JAMES, Petitioner v. COMMISSIONER OF INTERNAL REVENUE, Respondent	13-Jan-21	T.C. Memo. 2021-7

Table 4: Number of Tax Court Precedential Opinions Each Year from 1969 to 2021²⁶²

1969	216
1970	235
1971	205
1972	199
1973	189
1974	177
1975	204
1976	181
1977	172
1978	194
1979	200
1980	208
1981	193
1982	152
1983	129
1984	128
1985	137
1986	166
1987	178
1988	155
1989	153
1990	104
1991	90
1992	82
1993	85
1994	87
1995	76
1996	77
1997	61
1998	72
1999	84
2000	118
2001	99
2002	100
2003	71
2004	46
2005	36
2006	36
2007	36
2008	38
2009	38
2010	45
2011	48
2012	43
2013	38

Table 5: Tax Court Precedential Opinions in Pro Se Cases Each Year from 1969 to 2018

YEAR: 1969

TOTAL PRO SE OPINIONS: 31

Case/Petitioner Name	Reports of United States Tax Court Volume	Page Number
Lawrence H. Bakken	51	603

262. All U.S. Tax Court Division Opinions (T.C.) for the given year on Westlaw.

Jerome A. Wiltse and Lillian M. Wiltse	51	632
David B. and Yun D. Barr	51	693
Ernest L. Rink	51	746
Warren B. and Hilda B. Miller	51	755
Arthur E. Ryman Jr. and Jacqueline S. Ryman	51	799
Cecil A. Donaldson and Liselotte Donaldson	51	830
Aloysius J. Proskey	51	918
Eugene E. Carter and Clarice E. Carter	51	932
Cleveland J. Harris	51	980
S.P. Keith Jr. and Marguerite C. Keith	52	41
Robert W. Jorg	52	288
William E. and Carolyn S. Palmer	52	310
Joseph M. and Helen J Sperzel	52	320
Bruce Cornwall and Louise B. Stratton	52	378
John E. MacDonald, Jr. and Henrietta E. MacDonald	52	386
Julie K. McGuire	52	468
Robert M. and Doris D. Rose	52	521
Ernest Walton Horne	52	572
Alex A. Ruff	52	576
Charles F. Johnston Jr.	52	792
Joseph J. and Lily U. Bunevith	52	837
Richard Walter Drake	52	842
Thos. E. and Veronica S. Bone	52	913
Carmen and Susan Chimento	52	1067
Ronald F. and Deborah C. Weismann	52	1106

Emil J. and Delores E. Michaels	53	269
Whiteman Stewart	53	344
Emilio Schinasi	53	382
Keith and Alice Misegades	53	477
Leon S. and Olga H. Altman	53	487

YEAR: 1970**TOTAL PRO SE OPINIONS: 40**

Case/Petitioner Name	Reports of United States Tax Court Volume	Page Number
Burke W. Bradley Jr. and Karen E. Bradley	54	216
Edward A. Murphy and Cynthia L. Murphy	54	249
Walter P. and Joan M. Stricker	54	355
Ford E. Wilkins	54	362
Jeffrey L. Weiler and Susan K. Weiler	54	398
Yaroslav Horodysky and Stephanie Horodysky	54	490
Guy R. and Rita R. Motto	54	558
Stanley and Edith Marlin	54	560
Hollie T. Dean and Eunice J. Dean	54	663
Arthur I. Saltzman	54	722
Llyod G. and Marilyn A. Jones	54	734
John S. Neri and Mary C. Neri	54	767
James M. O'Hare	54	874
C.B.C. Super Markets, Inc./Frank Cicio	54	882
Harry F. and Shirley Hardy	54	1194
Kenneth R. Kenfield	54	1197
Frederick J. and June M. Barry	54	1210
Robert J. and Marjorie J. Schweighardt	54	1273

Jerry S. Turem	54	1494
Arthur and Patricia Figueiredo/George and Sheri Ann McMurrick	54	1508
Irwin S. and Frances H. Anderson	54	1547
Lory Buccola	54	1599
William H. and Betty R. Maness	54	1602
J. Bryant and Maryann Kasey	54	1642
Lawrence D. and Marianne C.A. Greisdorf	54	1684
John S. Healey	54	1702
Ivan D. Pomeroy	54	1716
Harold G. and Guinevere McDermid	54	1727
Adell D. Cox	54	1735
Jon F. and Constance M. Hartung	55	1
Carl F. and Kathleen E. Holmes	55	53
Eddie L. and Dorothy J. Carter	55	109
Charles E. Moritz	55	113
George Wynn and Maleita E. Smith	55	133
Harvey L. McCormick	55	138
Fred L. and Magdalene E. Bunn	55	271
Hyman Podell	55	429
Harvey P. Utech	55	434
Darrel D. and Doris L. Hudgins	55	534
Harvey L. and Nita L. Hopkins	55	538

YEAR: 1971**TOTAL NUMBER OF PRO SE CASES: 29**

Case/Petitioner Name	Reports of United States Tax Court Volume	Page Number
Harold and Doris S. Gilberg	55	611

Donald W. and Anita C. Fausner	55	620
Robert A. and Marian E. Hitt	55	628
Jacob L. Rappaport	55	709
William J. Granan	55	753
Truman C. and Birdie Jo Tucker	55	783
Peter C. and Amaryllis E. Corbett	55	884
Virginia M. Cramer	55	1125
William B. Turner	56	27
Philip J. McCauley	56	48
Robert A. and Margery B. Aagaard	56	191
Helen R. Albert	56	447
Don E. and LaRue Wyatt	56	517
Alexandre R. and Tanja B. R. Tarsey	56	553
Charles W. and Mary H. Miller	56	636
Robert M. and Shirley J. Foley	56	765
George W. and Jane M. Randall	56	869
Arthur C. Puckett Jr. and Dorothy W. Puckett	56	1092
A. Rolph and Doris R. Evans	56	1142
J.A. and Hilma Martin	56	1255
Homer A. Martin Jr. and Alma M. Martin	56	1294
John C. Ford	56	1300
Edward F. and Frances J. Blatnick	56	1344
David N. Bodley	56	1357
Ellery Willis and Helen Morehouse Newton	57	245
Thomas W. and Jennifer A. Gallery	57	257
Jewell D. and Leah M. Godbehere	57	349
Thomas P. and Kathleen S. Phillips	57	420

Julio S. and Joan K. Mazzotta	57	427
-------------------------------	----	-----

YEAR: 1972**TOTAL NUMBER OF PRO SE CASES: 15**

Case/Petitioner Name	Reports of United States Tax Court Volume	Page Number
David A. Proffit	57	507
Blaine M. and Virginia C. Madden	57	513
James W. Maxwell	57	539
Norris E. and Pauline M. Carstenson	57	542
Jacob M. and Judith S. Moll	57	579
Emma R. Dorl	57	720
William C. and Alice C. Ferreira	57	866
Lawrence A. Ehrhart	57	872
Leonard F. and Marie Cremona	58	219
Baker and Helen D. Axe	58	256
Vincent O. Nappi, Jr.	58	282
Ellis D. Wheeler	58	459
Culver M. and Rosemary P. Budlong	58	850
Donald F. and Eleanore A. Dawson	59	264
Estate of Bernard J. McGuire, Erwin J. McGuire	59	361

YEAR: 1973**TOTAL NUMBER OF PRO SE CASES: 16**

Case/Petitioner Name	Reports of United States Tax Court Volume	Page Number
Mortimer L. and Rosanna Schultz	59	559
George W. and Corinna Jane Wiebusch	59	777
William M. Hardy	59	857
Robert V. Rafter	60	1
Leonard C. and Dolores M. Black	60	108
Fred K. Cleary	60	133

Horace E. and Edith B. Nichols	60	236
Samuel J. and Martha M. Cox	60	461
Anthony B. and Ada W. Cataldo	60	522
James M. Jordan	60	770
Morton S. and Ilene P. Taubman	60	814
Edward R. and Joan O. Fink	60	867
Susan Jo Russell	60	942
Duane M. and Marion C. Traxler	61	97
Estate of William J. Ellsasser, Deceased, William Ward and Charlotte C. Ellsasser and Robert V. Schnabel, Executors	61	241
John A. Bayless	61	394

YEAR: 1974**TOTAL NUMBER OF PRO SE CASES: 16**

Case/Petitioner Name	Reports of United States Tax Court Volume	Page Number
James K. and Madeline F. Pierce	61	424
William L. Frost	61	488
Andrzej T. Wirth	61	855
James T. Shiosaki	61	861
Francis E. and Judith M. Kelley	62	131
Richard A. and Lois Jean Zaun	62	278
Patrick Michael O'Brien	62	543
Geral W. and Johanna C. Dietz	62	578
Russel Leigh Doty, Jr.	62	587
William F. Henry	62	605
Louis Richard Hosking	62	635
Ronald E. Garwood	62	699
Patrick L. O'Donnell	62	781
Lena Mae and Louis B. Lovelace	63	98

Eugene G. and Lorraine B. Feistman	63	129
Estate of Robert A. Stefanowski, Deceased, June Stefanowski, Surviving Spouse	63	386

YEAR: 1975**TOTAL NUMBER OF PRO SE CASES: 22**

Case/Petitioner Name	Reports of United States Tax Court Volume	Page Number
John C. and Nancy J. Giordano	63	462
Robert G. and Joan D. Clapham	63	505
Duane M. and Marion C. Traxler	63	534
John W. and Mary M. Herrick	63	562
Donald H. and Patricia Marie Mathes	63	642
Ivor Cornman	63	653
John L. and Susanna L. Brooks	63	709
Gordon L. and Mary E. Krieger	64	214
Eugene R. and Jean C. Anderson	64	560
Madonna J. and James E. Colwell	64	584
Robert L. Gertz and J. Kay Gertz	64	598
Alfred H. and Frances Turecamo	64	720
William L. Taub	64	741
John D. and Genevieve A. McComish	64	909
Edward A. Cupp	65	68
Frank J. Hradesky	65	87
Jack R. and Ursula Goldstone	65	113
John David Egnal and Claudia Ann Elferdink	65	255
Joe F. and Ann Gizzi	65	342
John E. and Iris E. Montgomery	65	511
Raymond M. Hartman	65	542
Edward F. and Patricia J. Neubecker	65	577

YEAR 1976:**TOTAL NUMBER OF PRO SE CASES: 18**

Case/Petitioner Name	Reports of United States Tax Court Volume	Page Number
Alberto and Zenaida Roque	65	920
Kenneth C. Davis	65	1014
Ralph E. and Patricia Lee Purvis	65	1165
Della M. Meadows	66	51
Marcia K. and Robert M. Sarmir	66	82
William R. Kinney	66	122
Robert L. Anthony	66	367
Lawrence W. and Michael A. Norwood	66	467
Joel A. and Ann L. Sharon	66	515
Frank and Helen Ternovsky	66	695
Alan and Selma W. Nemser	66	780
Merrill Lee Meehan	66	794
John Q. Adams	66	830
Martha P. Pierce	66	840
Virginia and Lou Foote	67	1
David R. and Betty H. Blake	67	7
Carl E. and Paula Koch	67	71
Loren R. and Mervin A. Gajewski	67	181

YEAR: 1977**TOTAL NUMBER OF PRO SE CASES: 21**

Case/Petitioner Name	Reports of United States Tax Court Volume	Page Number
Richard Sharvy	67	630
Severino R. and Teresita V. Nico	67	647
Benjamin B. Bochner	67	824
George A. and Marjorie M. Turner	68	48

Richard J. Sydnese	68	170
Donald D. Focht	68	223
Eugene Robert Mason	68	354
Richard R. Sibla	68	422
Paul and Helen Newman	68	433
Orrin L. Grover	68	598
Raleigh Hamilton	68	603
Anthony and Delia Trujillo	68	670
Joseph Linder	68	792
Fred and Carolyn J. Schooler	68	867
Lou M. Hatfield	68	895
H. Clinton Pollack, Jr. and Wendy Pollack	69	142
Armen B. Condo	69	149
Thomas A. and Aurora A. DePaolis	69	283
Paul F. Roemer, Jr. and Marcia E. Roemer	69	440
Carlin J. and Virginia H. Black	69	505
Lawrence D. and Rosemary J. Boyer	69	521

YEAR: 1978**TOTAL NUMBER OF PRO SE CASES: 24**

Case Petitioner Name	Reports of United States Tax Court Volume	Page Number
Albert and Carol Tucker	69	675
Kenneth C. and Inger P. Davis	69	716
Roger and Margaret Laurano	69	723
Richard W. and Janet Orzechowski	69	750
Calvin K and Mary I. of Oaknoll	69	770
Charles W. Rambo	69	920
Dorothy E. Warner	69	995

Charles M. and Joyce R. Shaw	69	1034
Estate of Claude E. Brimm, deceased, Delores E. Brimm, Special Administrator	70	15
Shirley W. Keeler	70	279
Amirali Budhwani	70	287
Theodore Role and Robert J. Schwartz	70	341
Stanley A. Dunn	70	361
Alexander E. Baker, Jr. and Mary A. Baker	70	460
William H. and Beverly S. Reading	70	730
Wendell H. Collins and Dorothy B. Collins	70	785
Leonarda C. Diaz	70	1067
James E. Thompson, Jr.	71	32
Benjamin Taylor, Jr.	71	124
William W. and Anna M. Brownholtz	71	332
Edward J.P. and Starr Q. Zimmerman	71	367
John E. and Billie L. Stout	71	441
William J. and Loretta C. Martino	71	456
John E. and Phyllis E. Adams	71	477

YEAR: 1979**TOTAL NUMBER OF PRO SE CASES: 27**

Case/Petitioner Name	Reports of United States Tax Court Volume	Page Number
Madeline G. Dyer	71	560
Matthew J. and Patricia K. Reisinger	71	568
Lewis H. Allen	71	577
Roger D. and Arlene J. Wilkerson	71	633
William I. and Madge L. Woodford	71	991
Bernard D. Spector	71	1017

Robert W. and Mary F. Minnis	71	1049
Frank R. Malinowski and Richard E. Sommers	71	1120
Larchmont Foundation and Paul R. Stout	72	131
Elwood R. and Joyce A. Milliken	72	256
Anthony D. Miele and Patrick H. Fierro	72	284
Orthel E. Cassell	72	313
Glen M. King and Elizabeth A. King	72	349
Eugene J. and Dona Ramm	72	671
William B. Richardson	72	818
Kurt H. and Jolanda M. Teil	72	841
Richard M. Sims, Jr. and Dale A. Sims	72	996
Roger C. and Mary T. Brewin	72	1055
Edith G. White	72	1126
Paul R. Wassenaar	72	1195
John R. and Oneta B. Hernandez	72	1234
Justin Popa	73	130
Bernard C. and But Thi Billman	73	139
Goldie O. Brown	73	156
David C. Goodwin	73	215
Steven and Mary Gegax	73	329
Ada N. Maestre and Bernardo L. La Fontaine	73	337

YEAR: 1980

TOTAL NUMBER OF PRO SE CASES: 37

Case/Petitioner Name	Reports of United States Tax Court Volume	Page Number
Francis X. Stone	73	617
Phillip K. and Kathleen M. Fife	73	621

John Stuart Looper	73	690
Alice Pauline Browne	73	723
Evan C. and Virginia A. Jolitz	73	732
Louis C. and Ruth R. Finland	73	743
Edwin R. Curphey	73	766
Curtis B. Woodson and Estate of Fern R. Woodson	73	779
Charles S. Greenberg	73	806
Wm. Keith Tingle	73	816
Fernando and Rita Faura	73	849
Joseph T. Peek	73	912
Frank B. Hawes Jr.	73	916
Hirotooshi Yamamoto	73	946
Raymond A. and Norma F. Craig	73	1034
Nicki A. McLendon	74	1
Nathan K. and Janice C. Parker	74	29
Harry H. and Marilyn P. Voigt	74	82
Amos and Dorothy Rapoport	74	98
Rudolph and Yolanda Baie	74	105
Ronald E. and Stella M. Randolph	74	284
Paul V. Riley, Jr.	74	414
Jerry S. Placko	74	452
Robert T. Gestrich	74	525
Earlene T. Barker	74	555
Arthur and Lorelei J. Gundersheim	74	573
Ronnie D. and Jorj L. Judd	74	651
Richard J. Snydes	74	864
Bart A. Johnson, Jr. and Billie Ruth Johnson	74	1057
Robert Bergin	74	1098

Margaret Cramer Green	74	1229
Cade L. and Betty R. Austin	74	1334
Al S. and Miriam Reinhardt	75	47
Ronald L. and Sandra K. Haberkorn	75	259
Eugene G. and Susan M. Bertino	75	284
Florence E. Callander	75	334
Ralph B. Graham Jr.	75	389

YEAR: 1981**TOTAL NUMBER OF PRO SE CASES: 33**

Case/Petitioner Name	Reports of United States Tax Court Volume	Page Number
S. Franklin Burford	76	96
William A. and Florence E. Glynn	76	116
Robert S. and Marybeth Jaggard	76	222
Lawrence F. and Mary M. Fay	76	408
Louis P. and Diane E. Contini	76	447
Grady W. Henry	76	455
Carl V. McGahen	76	468
Henry L. and France O. Hills	76	484
John A. and Glenna Lyle	76	668
William E. Berger	76	687
Ethel C. Jackson	76	696
Donald B. and Maxine A. Pearson	76	701
David A. Burns	76	706
Clifford R. and Robin A. Dammers	76	835
Norman E. McCoy and Mary Louise McCoy	76	1027
Jose P. Iglesias	76	1060
Robert J. and Betty J. Sullivan	76	1156
John R. and Susan B. Monson	77	91

Richard M. Doncaster	77	334
Peter and Mary Ann Zuanich	77	428
Frederick A. and Helen P. Chapman	77	477
Alexander Washington	77	601
C.A. and Mollie J. Ostrom	77	608
William W. Mattes, Jr.	77	650
Frank and Ruth McGuire	77	765
James O. and Joan S. Druker	77	867
Arthur E. and Geraldine L. Johnson	77	876
Earle E. and Jane M. Cobb	77	1096
Robert J. and Phyllis Boser	77	1124
Louis H. and Anna L. Shereff	77	1140
Charles C. and Mildred H. Reiff	77	1169
Joseph T. and Marie A. Smith	77	1181
Arthur K. and V. Louise Hellermann	77	1361

YEAR:1982**TOTAL NUMBER OF PRO SE CASES: 21**

Case/Petitioner Name	Reports of United States Tax Court Volume	Page Number
Estate of James Smead, Deceased, John P. O'Hara Jr., Executor	78	43
Frank R. and Mary Jane Hamblen	78	53
Albert and Virginia R. Horvath	78	86
Benjamin and W. and Rosemarie Wise	78	270
Florence V. Habersham-Bey	78	304
John W. Green and Regina R.Z. Green	78	428
Charles A. and Elaine M. Robinson	78	550
Joan D. and Gene E. Thompson	78	558
Darwin D. Jarvis	78	646
J.H. and Dorothy T. McQuiston	78	807

Daniel S. and Emma F. Haar	78	864
Edward J. and Edith Hauser	78	930
Pietro and Christina Ruggere	78	979
Roy D. and Ruth E. Earl	78	1014
Roy Newton Lucas and Faye Broze Lucas	79	1
Donald John Rechtzigel	79	132
William M. Boyer	79	143
William and Marilyn Glen	79	208
Edward and Janice G. Casel	79	424
Edith W. Zoltan	79	490
Paul C. and Debra L. Nordberg	79	655

YEAR: 1983**TOTAL NUMBER OF PRO SE CASES: 13**

Case/Petitioner Name	Reports of United States Tax Court Volume	Page Number
Estate of Margita Applestein, Administrator Louis Applestein	80	331
Anthony J. Ditunno	80	362
Joseph and Miriam Brandschain	80	746
E. Kevan Rowlee	80	1111
David E. and Carolyn D. Anthes	81	1
Thomas W. and Ingrid L. Cameron	81	254
Theodore H. and Rainsford D. Olson	81	318
Max Eugene Benningfield Jr. and Shelly Jean Benningfield	81	408
James J. Davis and Peggy Davis	81	807
Stephen and Valerie H. Bolaris	81	840
Charles Richard McCain	81	918
Merrill J. Foote	81	930
Gary E. and Shirley A. Sjoroos	81	971

YEAR: 1984**TOTAL NUMBER OF PRO SE CASES: 12**

Case/Petitioner Name	Reports of United States Tax Court Volume	Page Number
Mary F. Beall	82	70
Percy E. Godbold Jr. and Grace F. Godbold	82	73
Jack R. Yoakum	82	128
John A. Grimes	82	235
Glenn D. Brooks	82	413
John A. and Doris L. Coulter	82	580
Edward P. Dusha	82	593
Ben S. and Natalie Kaufman	82	743
Robert D. Beard	82	766
Robert P. Groetzinger	82	793
Ferris F. and Dorothy S. Boothe	82	804
Billie E. Billman	83	534

YEAR: 1985**TOTAL NUMBER OF PRO SE CASES: 16**

Case/Petitioner Name	Reports of United States Tax Court Volume	Page Number
Ira S. and Susan B. Feldman	84	1
Albert G. Warfield III and Marsha Warfield	84	179
Roy C. Derksen	84	355
Daniel M. Castillo	84	405
Harry R. Thompson	84	645
Charles A. and Jan F. Scott	84	683
James K. and June B. Calcutt, and William and Pameal Hershfeld	84	716
Albert Matut	84	803
William W. Grant	84	809

Daniel C. and Peggy B. Peach	84	1312
Leslie C. and Joan Curtis	84	1349
Thomas S. and Barbara Eanes	85	168
William L. Becker	85	291
Edward Barone	85	462
Ramon and Audra V. Fuentes	85	657
Karl L. and Clara J. Dahlstrom	85	812

YEAR: 1986**TOTAL NUMBER OF PRO SE CASES: 12**

Case/Petitioner Name	Reports of United States Tax Court Volume	Page Number
James Edward Bent	87	236
Estate of Pauline E. Bullard, Deceased, Victor M. Bullard, Executor, and Victor M. Bullard	87	261
Robert S. Groetzinger and Beverly L. Groetzinger	87	533
E. Roger Frisch and Marie L. Frisch	87	838
Lewis Hanford Kessler, Jr., and Kay Bethard Kessler	87	1285
Leone Borsurgi	87	1403
John Albert Michaels and Rebecca Hooper Michaels	87	1412
Basic Bible Church of America	86	110
Arnold H. Feldman and Carole L. Feldman	86	458
Louis R. Tomburello and Annette C. Tomburello	86	540
William W. Sparrow and Lydia S. Sparrow	86	929
John B. Kotmair, Jr.	86	1253

YEAR: 1987**TOTAL NUMBER OF PRO SE CASES: 14**

Case/Petitioner Name	Reports of United States Tax Court Volume	Page Number
Randy Brooks	89	43
Computer Programs Lambda, Ltd., William A. Pyke, Tax Matters Partner, Et al.	89	198

Jerry Larotonda and Leonie Larotonda	89	287
Gary J. Yusko	89	806
Jane A. Martin	89	894
Gregory W. McKay	89	1063
James Vernon and Linda Truesdell	89	1280
David A. Rooney and Jeanne R. Rooney, Richard A. Plotkin and Patricia D. Plotkin, and Grafton H. Willey IV	88	523
Daniel V. Tilton, Transferee	88	590
Biltmore Blackman	88	677
Ana Maria Metzger	88	834
Clovis I, Carl E. and Hazel E. Lovell, Sr., Persons Other than the Tax Matters Partner	88	980
Richard Leroy Kahle	88	1063
Wynn M. Stephens	88	1529

YEAR: 1988**TOTAL NUMBER OF PRO SE CASES: 9**

Case/Petitioner Name	Reports of United States Tax Court Volume	Page Number
Bruce Charles Frazier	91	1
William A. Woods II	91	88
Estate of Amelia S. Home, Deceased, Andrew Berry, Executor	91	100
James Edward Dew	91	615
Martin T. Egan and Sandra S. Egan	91	705
Energy Resources, LTD., John C. Coggin III, A Partner Other Than the Tax Matters Partner	91	913
Michael J. Godlewski	90	200
Ross Lawrence Link	90	460
Eric L. and Sheila P. Clayden, et al.	90	656

YEAR: 1989**TOTAL NUMBER OF PRO SE CASES: 14**

Case/Petitioner Name	Reports of United States Tax Court Volume	Page Number
----------------------	---	-------------

Charles E. McManus, III (A Professional Law Corporation)	93	79
Nancy J. Gumm, AKA Nancy J. Gumm Errichetti, Transferee	93	475
Arthur H. Hardy and Jeannine C. Hardy	93	684
William A. Brown and Ann S. Brown	93	736
David R. Kane	93	782
Martha P. Murphy and Landry Murphy	92	12
Everett Bolton and Zona Bolton	92	303
Carolyn Pratt Perry	92	470
Carl F. Pleier	92	499
Ronald M. and Nancy I. Sokol	92	760
Robert E. Birth and Lorraine J. Birth	92	769
Terry Dean Welander	92	866
Ottis E. Crocker, Jr. and Kay E. Crocker	92	899
Marjorie E. Brock	92	1127

YEAR: 1990**TOTAL NUMBER OF PRO SE CASES: 12**

Case/Petitioner Name	Reports of United States Tax Court Volume	Page Number
Triangle Investors Limited Partnership, Charles T. Collier, Tax Matters Partner	95	610
Frank W. and Lorna D. Stamos	95	624
Claude E. Braddock and Michellen Braddock	95	639
Robert B. Neilson and Dorothy F. Neilson	94	1
Gordon F. Kamholz	94	11
Andrew Benjamin Aames, AKA Larimore S. Brooks	94	189
Alex L. and Earlene Polyak	94	337
Alfred W. and Mary M. Hamacher	94	348
Roger G. Hopper and Helen H. Hopper	94	542

Ruth B. Parks	94	654
Dorothy LaPoint	94	733
Gabriel Schlosser and Mary Ellen Schlosser	94	816

YEAR: 1991**TOTAL NUMBER OF PRO SE CASES: 7**

Case/Petitioner Name	Reports of United States Tax Court Volume	Page Number
Thomas Lee Hesselink	97	94
Rollercade, Inc., Victor E. Folks, Tax Matters Person	97	113
Jack H. Berry and Crisa A. Berry	97	339
Vahlco Corporation, Successor to Vahlsing Management Consultants, Inc., Et Al.	97	428
Ronald J. Allison	97	544
Frederick P. and Patricia L. Meyer	97	555
Thomas C. Powell and Joyce R. Powell	96	707

YEAR: 1992**TOTAL NUMBER OF PRO SE CASES: 5**

Case/Petitioner Name	Reports of United States Tax Court Volume	Page Number
Paul E. Niedringhaus and Gladys F. Niedringhaus	99	202
Halliburton Company, by Ken Nash	98	88
Alan Joel Aronson and Diane Judith Aronson	98	283
Richard J. Galuska	98	661
Karl Hofstetter	98	695

YEAR: 1993**TOTAL NUMBER OF PRO SE CASES: 10**

Case/Petitioner Name	Reports of United States Tax Court Volume	Page Number
Corey Don Eiges, Theresa Deal Eiges, and Jordan Deal Eiges	101	61
Lee C. and Barbara Kingan Boyd	101	365
Charles W. and Cathe R. Walker	101	537
Mary Ruth and Jimmy L. Hayes	101	593

Alicia St. John Huddleston, Transferee, A Minor, Et Al.	100	17
Robert B. Risman and Eleanor Risman	100	191
Halliburton Company, by Ken Nash, Employee	100	216
Thomas C. Rink and Alison W. Rink	100	319
Robert L. Karem and Hazel W. Karem	100	521
James L. Hudson	100	590

YEAR: 1994**TOTAL NUMBER OF PRO SE CASES: 4**

Case/Petitioner Name	Reports of United States Tax Court Volume	Page Number
James L. Hudson	103	90
Steven D. Bagby	102	596
David G. Clayton and Barbara A. Clayton	102	632
Donald V. Crowell and Joanne Currie-Crowell	102	683

YEAR: 1995**TOTAL NUMBER OF PRO SE CASES: 3**

Case/Petitioner Name	Reports of United States Tax Court Volume	Page Number
Donald J. Miravalle and Lillian Joy Miravalle	105	65
Rex L. Zimmerman and Charlene A. Zimmerman	105	220
James W. Tippin and Billie R. Tippin	104	518

YEAR: 1996**TOTAL NUMBER OF PRO SE CASES: 2**

Case/Petitioner Name	Reports of United States Tax Court Volume	Page Number
James Luther Cochrane	107	18
Robert J. Dwyer and Catherine Dwyer	106	337

YEAR: 1997**TOTAL NUMBER OF PRO SE CASES: 2**

Case/Petitioner Name	Reports of United States Tax Court Volume	Page Number
Robert and Marie Banat	109	92
William R. and Muriel G. Jackson	108	130

YEAR: 1998**TOTAL NUMBER OF PRO SE CASES: 5**

Case/Petitioner Name	Reports of United States Tax Court Volume	Page Number
Robert C. and Nancy L. Arnold	111	250
John F. Romann	111	273
Dona Elizabeth Conway	111	350
Albert Lemishow	110	110
Judith K. Guerra AKA Judith Harvey	110	271

YEAR: 1999**TOTAL NUMBER OF PRO SE CASES: 11**

Case/Petitioner Name	Reports of United States Tax Court Volume	Page Number
Gerald A. Sadler	113	99
Walter R. Strohmaier	113	106
Ivan and Betty Lee Turner Gati	113	132
William Grant Lee	113	145
Paul J. Pekar	113	158
Jeffrey R. Taylor	113	206
Edward Turney Savage	112	46
Dennis L. Hayden and Sharon E. Hayden	112	115
Robert and Linda Yuen	112	123
Eldon Harvey Krugman	112	230
Aldrich H. Ames	112	304

YEAR: 2000**TOTAL NUMBER OF PRO SE CASES: 14**

Case/Petitioner Name	Reports of United States Tax Court Volume	Page Number
David C. McCune	115	114
Kathy A. King	115	118
Henry Hermanus Van Es	115	324
Scott William Katz	115	329
William B. Meyer, Diane S. Meyer	115	417
Terry Hiram Pierson	115	576
Clifford W. Miller	115	582
Stephen W. Williams	114	136
Janet N. Moore	114	171
Howard Goza	114	176

Freddie Lynn Charlton, Sarah K. Hawthorne, FKA Sarah K. Charlton	114	333
Lucielle J. Offiler AKA Lucille Offiler	114	492
John W. and Faythe A. Miller	114	511
Steven and Davina Segó	114	604

YEAR: 2001**TOTAL NUMBER OF PRO SE CASES: 13**

Case/Petitioner Name	Reports of United States Tax Court Volume	Page Number
Brian and Tina Nicklaus	117	117
Ervin Michael Sarrell	117	122
Gary G. Boyd	117	127
David J. and Jo Dena Johnson	117	204
Patricia M. Mora, FKA Patricia Rasberry, Petitioner, and Lynn Rasberry, Intervenor	117	279
Samuel T. Seawright and Carol A. Seawright	117	294
Francisco and Angela Aguirre	117	324
Eugene M. Landry	116	60
Kenneth L. Nordtvedt	116	165
Michael G. Culver and Christine M. Culver	116	189
Kathy A. King and Curtis T. Freeman, Intervenor	116	198
James R. Kennedy	116	255
Earl G. Higbee and Lesley A. Higbee	116	438

YEAR: 2002**TOTAL NUMBER OF PRO SE CASES: 14**

Case/Petitioner Name	Reports of United States Tax Court Volume	Page Number
Stanley D. Clough and Rosemary A. Clough	119	183
Ranie M. Raymond	119	191
Michael Craig	119	252
John Maier III	119	267
Jimmie L. Williams and Annie W. Williams, Deceased, Jimmie L. Williams, Personal Representative	119	276
Rosalinda E. Alt	119	306

Barry R. Downing and Mary A. Downing	118	22
Gloria J. Spurlock	118	155
Michael E. Nestor	118	162
Michael K. and June C. Hambrick	118	348
Elena Swain	118	358
Thomas W. Roberts	118	365
Thomas William McAdams	118	373
Harold F. Behling	118	572

YEAR: 2003**TOTAL NUMBER OF PRO SE CASES: 16**

Case/Petitioner Name	Reports of United States Tax Court Volume	Page Number
Alphonse Mourad	121	1
Curtis B. Keene	121	8
Yvonne E. Thurner	121	43
Neal Swanson	121	111
Emmanuel L. Roco	121	160
Jeffrey R. and Sabrina M. King, and Jimmy R. and Suzy O. Lopez	121	245
Edwina Diane Campbell	121	290
George G. Green	121	301
Fortunato J. Mendes	121	308
Thomas D. Tuka	120	1
Bruce L. Brosi	120	5
Kathryn Bernal	120	102
James C. and Katherine Wilkins	120	109
Howard and Everlina Washington	120	114
Connie A. Washington	120	137
Michael A. Cabirac	120	163

YEAR: 2004**TOTAL NUMBER OF PRO SE CASES: 16**

Case/Petitioner Name	Reports of United States Tax Court Volume	Page Number
Keith and Cherie Orum	123	1
Jack A. Fleischli, AKA Jack Forbes	123	59
Michael Zarky	123	132

Lawrence G. Williams	123	144
Thomas Corson	123	202
Ryan David Funk	123	213
James E. Anderson and Cheryl J. Latos	123	219
William D. and Joyce M. Reimels	123	245
Natalie W. McGee	123	314
Clara L. Prevo	123	326
Delbert L. and Margaret J. Baker	122	143
Joyce E. Beery	122	184
Don Weber II	122	258
Victor and Judith A. Grigoraci	122	272
Oren L. Benton	122	353
William F. Urbano and Flota L. Urbano	122	384

YEAR: 2005**TOTAL NUMBER OF PRO SE CASES: 8**

Case/Petitioner Name	Reports of United States Tax Court Volume	Page Number
Joseph Paul Freije	125	14
William J. McCorkle	124	56
John M. and Rebecca A. Dunaway	124	80
John Michael Dunkin	124	180
Kevin P. Burke	124	189
Michael A. Zapara and Gina A. Zapara	124	223
Edward R. Arevalo	124	244
Charles F. and Susan G. Glass	124	258

YEAR: 2006**TOTAL NUMBER OF PRO SE CASES: 6**

Case/Petitioner Name	Reports of United States Tax Court Volume	Page Number
William A. Stewart	127	109
Charles Raymond Wheeler	127	200
Kelly Sue Tipton and Darren L. Darilek, Intervenor	127	214
Llewlyn Greene-Thapedi	126	1
Michael A. Zapara and Gina A. Zapara	126	215
Greg A. Bell	126	356

YEAR: 2007**TOTAL NUMBER OF PRO SE CASES: 8**

Case/Petitioner Name	Reports of United States Tax Court Volume	Page Number
Robert L. Perkins	129	58
Michael Patrick and Debye Lee Leahy	129	71
Alan Lee and Debi Marie Kuykendall	129	77
Neil Jerome Proctor	129	92
Theodore C. and Denise M. Schwartz	128	6
Cynthia L. Rowe	128	13
Joseph E. Lewis	128	48
Lisa Susan Kovitch and Richard P. Kovitch, Intervenor	128	108

YEAR: 2008**TOTAL NUMBER OF PRO SE CASES: 7**

Case/Petitioner Name	Reports of United States Tax Court Volume	Page Number
Joseph P. Freije	131	1
Maureen Patricia Wilson	131	47
Martin David Hoyle	131	197
Larry G. and Maria A. Walton Mitchell	131	215
Dudley Joseph Callahan and Myrna Dupuy Callahan	130	44
Suzanne L Porter AKA Suzanne L. Holman	130	115
Letantia Bussell and Estate of John Bussell, Deceased, Letantia Bussell, Surviving Spouse	130	222

YEAR: 2009**TOTAL NUMBER OF PRO SE CASES: 5**

Case/Petitioner Name	Reports of United States Tax Court Volume	Page Number
Jimmy Asiegbu Prince	133	270
Kathleen A. Vinatieri	133	392
Denise Mannella	132	196
Suzanne L Porter AKA Suzanne L. Holman	132	203
Mattie Marie Mason	132	301

YEAR: 2010**TOTAL NUMBER OF PRO SE CASES: 5**

Case/Petitioner Name	Reports of United States Tax Court Volume	Page Number
Dennis Klein	135	166
Lisa S. Goff	135	231
Robert Fitzgerald Pough	135	344
James F. and Lynn M. Moss	135	365
Scott E. Rubenstein, Transferee	134	266

YEAR: 2011**TOTAL NUMBER OF PRO SE CASES: 12**

Case/Petitioner Name	Reports of United States Tax Court Volume	Page Number
Kenneth William Kasper	137	37
Leonard W. Harbin and Bernice Nalls, Intervenor	137	93
Mark W. May and Cynthia R. May	137	147
Joseph Melville Woods, Jr.	137	159
Ronald Andrew Mayo and Leslie Archer Mayo	136	81
Renkemeyer, Campbell & Weaver, LLP, Troy Renkemeyer, Tax Matters Partner	136	137
James Bruce Thornberry and Laura Anne Thornberry	136	356
Kevin Patrick Brady	136	422
Scott Grunsted	136	455
Martin David Hoyle	136	463
Scott F. Wnuck	136	498
Jan Elizabeth Van Dusen	136	515

YEAR: 2012**TOTAL NUMBER OF PRO SE CASES: 15**

Case/Petitioner Name	Reports of United States Tax Court Volume	Page Number
Luther Herbert Allcorn, III	139	53
Arnold Bruce Winslow	139	270
Raymond Cohen	139	299
Robert D. Packard	139	390

Theodore B. Gould and Estate of Helen C. Gould, Theodore B. Gould, Executor	139	418
Billy Edward Armstrong and Phoebe J. Armstrong	139	468
Rachel George	139	508
John J. Minihan, Jr., Intervenor	138	1
Francis T. Foster and Maureen P. Foster	138	51
Eugene Koprowski	138	54
Carol Diane Gray	138	295
Rosemarie E. Harrison	138	340
Thomas Edward Settles	138	372
Jack Trugman and Joan E. Trugman	138	390
Upen G. Patel and Avanti D. Patel	138	395

YEAR: 2013**TOTAL NUMBER OF PRO SE CASES: 3**

Case/Petitioner Name	Reports of United States Tax Court Volume	Page Number
Glen Lee Snow	141	238
Wise Guy Holdings, LLC, Peter J. Forster, Tax Matters Partner	140	193
Michael Keith Shenk	140	200

YEAR: 2014**TOTAL NUMBER OF PRO SE CASES: 7**

Case/Petitioner Name	Reports of United States Tax Court Volume	Page Number
Parimal H. Shankar and Malti S. Trivedi	143	140
Thomas M. Comparini and Vicki Comparini	143	274
Daniel Richard Buczek	143	301
Vivian L. Rader, et al.	143	376
Shiraz Noormohamed Lakhani	142	151
Bruce M. Kraft	142	259
Eric Onyango	142	425

YEAR: 2015**TOTAL NUMBER OF PRO SE CASES: 5**

Case/Petitioner Name	Reports of United States Tax Court Volume	Page Number
----------------------	---	-------------

Frederic A. Gardner and Elizabeth A. Gardner	145	161
John Chase Lee	144	40
Ralim S. El	144	140
Lana Joan Davidson	144	273
Clarence William Speer and Susan M. Speer	144	279

YEAR: 2016**TOTAL NUMBER OF PRO SE CASES: 4**

Case/Petitioner Name	Reports of United States Tax Court Volume	Page Number
David B. Greenberg	147	382
Isaiah Bongam	146	52
James E. Thiessen and Judith T. Thiessen	146	100
Bohdan Senyszyn and Kelly L. Senyszyn	146	136

YEAR: 2017**TOTAL NUMBER OF PRO SE CASES: 8**

Case/Petitioner Name	Reports of United States Tax Court Volume	Page Number
Dean Matthew Vigon	149	97
Steven A. McGuire and Robin L. McGuire	149	254
Charles D. Martin and Laura J. Martin	149	293
Fansu Camara and Aminata Jatta	149	317
Pei Fang Guo	149	334
Joe Alfred Izen, Jr.	148	71
Kevin DeWitt Skaggs	148	367
David T. Meyers	148	438

YEAR: 2018**TOTAL NUMBER OF PRO SE CASES: 2**

Case/Petitioner Name	Reports of United States Tax Court Volume	Page Number
Kenneth William Kasper	150	8
Karl F. Simonsen and Christina M. Simonsen	150	201