Received 09/01/26

Filed 09/01/26

Michael J. Wepplo & Tatyana R. Wepplo,

Petitioners

v.

Commissioner of Internal Revenue

Respondent

Docket No. 36722-21
Document No. 77

Brief of the Center for Taxpayer Rights as Amicus Curiae in Support of Petitioners' Motion to Redetermine Interest

SERVED 09/01/26

HAND DELIVERED

U.S. TAX COURT
RECEIVED

AUG 28 2026

UNITED STATES TAX COURT

MICHAEL J. WEPPLO & TATYANA R. WEPPLO,	)	
Petitioners,	)	Docket No: 36722-21
v.	)	
COMMISSIONER OF INTERNAL REVENUE,	)	Judge Holmes
Respondent.	)	

BRIEF OF THE CENTER FOR TAXPAYER RIGHTS AS AMICUS CURIAE IN SUPPORT OF PETITIONERS' MOTION TO REDETERMINE INTEREST

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases

Cases (cont'd):

Statutes

Internal Revenue Code (26 U.S.C.):

Regulations

Rules

Other Authorities

STATEMENT OF THE IDENTITY OF THE AMICUS CURIAE

The Center for Taxpayer Rights ("the Center") is a non-profit organization under section 501(c)(3) of the Internal Revenue Code dedicated to furthering taxpayers' awareness of and access to taxpayer rights.[1] The Center accomplishes its mission, in part, by educating the public and government officials about the role taxpayer rights play in promoting compliance and trust in systems of taxation and by engaging in litigation regarding taxpayer rights, as in this case. The Executive Director of the Center is Nina E. Olson, who from 2001 through 2019, served as the IRS National Taxpayer Advocate, appointed under section 7803(c)(1)(B).

The Center submits this brief pursuant to Rule 151.1(a) and its motion for leave to file as *amicus curiae*.[2]

---

[1] Unless otherwise stated, references to "section" or "I.R.C." herein are to the Internal Revenue Code of 1986 (26 U.S.C.), as amended, in effect at the relevant time, references to "Treasury Regulation" or "Treas. Reg." herein are to the Treasury Regulations (26 C.F.R.) in effect at the relevant time, and references to "Rule" are to the Tax Court Rules of Practice and Procedure.

[2] Pursuant to Rule 151.1(c)(1) and Rule 20, the Center does not have a parent corporation, and no publicly held corporation owns 10% or more of its stock. Pursuant to Rule 151.1(c)(3), no party's counsel authored this brief in whole or in part and no party, party's counsel, or other person (other than the amicus curiae, its members, or its counsel) contributed money that was intended to fund preparing or submitting this brief.

INTRODUCTION

As the Court has recognized, this case holds immense importance for our tax system and potentially millions of taxpayers. The question presented is whether section 7508A(d) mandates the suspension of interest accruing during a federally declared disaster period plus 60 days on tax liability, including liability arising before the disaster period. In the case of the nationwide COVID-19 pandemic, the disaster period ran from January 20, 2020, through July 10, 2023. Section 7508A(d), as in effect for the relevant period, provides that the disaster period "shall be disregarded in the same manner as a period specified under subsection (a)." Under subsection (a)(2), a period is "disregarded in determining . . . the amount of any interest, penalty, additional amount, or addition to the tax for periods after such date." The plain language compels the conclusion that section 7508A suspends "any interest" without regard to when the liability arose.

The Center endorses Petitioners' thorough analysis of the issue and does not retread the same ground. Instead, it focuses here on two arguments in support of Petitioners intended to supplement the Court's understanding and aid its resolution of this case. First, reading section 7508A(a)(2) in context confirms its otherwise plain meaning: it suspends interest on any pre-disaster tax liability. Paragraph (a)(1) operates to suspend interest on liabilities that would otherwise arise during a disaster period by delaying the date such liability becomes due until after the disaster period has ended and, by the same token, preventing the accrual of interest on such liability during the disaster period. If Congress meant to provide taxpayers relief from interest only on liabilities becoming due in the ordinary course during a disaster period, then it would have stopped at paragraph (a)(1), which does just that. Instead, Congress added paragraph (a)(2) in 2002 to extend such relief to pre-disaster liabilities. Indeed, it makes no sense to say that paragraph (a)(2) suspends interest on liability arising during the disaster period because, pursuant to paragraph (a)(1), there is no such liability until after the disaster period ends.

Second, any lingering doubt regarding the meaning of section 7508A should be resolved in favor of taxpayers under two established canons of statutory construction. The first canon, which the Supreme Court long ago adopted from English law, provides that laws imposing tax are construed narrowly, which means reading exceptions expansively. Section 7508A(a)(2) is an exception to the imposition of liability for underpayment interest. Petitioners' reasonable interpretation that section 7508A(a)(2) suspends interest on pre-disaster liability, at minimum, shows the absence of clear statutory authority to impose such liability. The second canon, which complements the first, is that a remedial statute such as section 7508A(a)(2) should be construed liberally to effectuate its remedial purpose. Taxpayers owing pre-disaster liabilities are no less affected by or deserving of relief from federally declared disasters and fall within the remedial purpose intended by Congress.

Low-income taxpayers are disproportionately impacted by the accrual of underpayment interest on pre-disaster liabilities. The National Taxpayer Advocate estimates that 39% of all taxpayers who had interest or penalties assessed during the pandemic have adjusted gross income of less than $100,000. Taxpayer Advocate Service, "*Objectives Report to Congress, Fiscal Year 2027*," June 24, 2026, https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2026/06/JRC27_FullReport.pdf. Further, low-income taxpayers suffered greater interruption to their employment during the pandemic, increasing their financial vulnerability. Elise Gould & Melat Kassa, "*Low-Wage, Low-Hours Workers Were Hit Hardest in the COVID-19 Recession*," *Economic Policy Institute*, May 20, 2021, https://www.epi.org/publication/swa-2020-employment-report/. The pandemic made it more difficult for low-income taxpayers to fulfill their payment obligations, regardless of when the obligations arose.

While low-income taxpayers have the most at stake, they are least equipped to pursue section 7508A relief as a result of the nationwide COVID-19 disaster. This case is particularly important in ensuring that low-income taxpayers receive the relief to which they are entitled. As a practical matter, the Tax Court is the only judicial venue available to low-income taxpayers and its decisions have national reach. More than that, a decision in this case that section 7508A(d) mandates the suspension of interest during the COVID-19 disaster period on liability arising before the disaster period carries the potential of automatic relief should the IRS respond by abating such interest. That result is what Congress intended when it enacted mandatory relief in section 7508A(d). Taxpayers' right under section 7803(a)(3)(J) to a fair and just system requires no less.

ARGUMENT

I. Section 7508A(a)(2) provides relief from underpayment interest "in respect of any tax liability" of a qualifying taxpayer, separate and apart from (a)(1) deadline relief

As aptly briefed by Petitioners, the plain meaning of section 7508A(a)(2) and (d)(1) provides mandatory relief from the accrual of underpayment interest and penalties on *any* tax liability during a federally declared disaster period plus an additional 60 days. The Center focuses here on the fundamental flaw of the Commissioner's position: that section 7508A(a)(2) provides relief from underpayment interest only with respect to acts determined to have been performed timely under paragraph (a)(1). Respondent's Response, at 10–11. Put differently, the Commissioner argues that section 7508A(a)(2) extends only to tax liabilities arising during the disaster period and not to pre-disaster liabilities. This argument effectively reads section 7508A(a)(2) out of the statute, because paragraph (a)(1) already provides such relief. Paragraph (a)(1) defers liability for tax, penalties, and interest that becomes due during a disaster period; paragraph (a)(2) must do something else. Any doubt as to whether section 7508A(a)(2) applies to pre-disaster liabilities by its own terms is resolved by the context, structure, and history of the statute.

In determining the meaning of a statute, the Court must look to "the language itself, the specific context in which that language is used, and the broader context of the statute as a whole." *Robinson v. Shell Oil Co.*, 519 U.S. 337, 341 (1997). When a particular statutory term is left undefined, the term's ordinary meaning is generally determinative. *Dynamo Holdings LP v. Commissioner*, 150 T.C. 224, 234 (2018). Other tools of statutory construction may also assist in determining the meaning of statutory text, including the interpretive canon that text should be interpreted "so as to avoid rendering any part of the statute meaningless surplusage." *Growmark, Inc. v. Commissioner*, 160 T.C. 475, 486 (2023) (quoting *15 W. 17th St. LLC v. Commissioner*, 147 T.C. 557, 586 (2016)). In particular, "[w]hen a statutory construction thus 'render[s] an entire subparagraph meaningless,' . . ., the canon against surplusage applies with special force." *Pulsifer v. United States*, 601 U.S. 124, 143 (2024) (quoting *Nat'l Ass'n of Mfrs. v. Department of Defense*, 583 U.S. 109, 128 (2018)).

A. Section 7508A(a)(1) suspends the accrual of underpayment interest by resetting the last date prescribed for payment

Section 7508A(a) reads as follows:

> (a) In general. In the case of a taxpayer determined by the Secretary to be affected by a federally declared disaster (as defined by section 165(i)(5)(A)) or a terroristic or military action (as defined in section 692(c)(2)), the Secretary may specify a period of up to 1 year that may be disregarded in determining, under the internal revenue laws, in respect of any tax liability of such taxpayer—
>
> (1) whether any of the acts described in paragraph (1) of section 7508(a) were performed within the time prescribed therefore (determined without regard to extension under any other provision of this subtitle for periods after the date (determined by the Secretary) of such disaster or action),
>
> (2) the amount of any interest, penalty, additional amount, or addition to the tax for periods after such date, and
>
> (3) the amount of any credit or refund.

As discussed below, paragraph (a)(1) suspends the accrual of underpayment interest on a liability for which the last date prescribed for payment falls within a disaster period. Paragraph (a)(2) does the same for pre-disaster liabilities.

Section 6601 provides that underpayment interest accrues on any tax not paid "on or before the last date prescribed for payment" as "determined under chapter 62," *i.e.*, sections 6151 through 6167. "The last date prescribed for payment" is "determined without regard to any extension of time for payment." I.R.C. § 6601(b)(1); *see, e.g.*, I.R.C. § 6161(a)(1). For individual taxpayers like Petitioners, "the last date prescribed for payment" of income tax for each tax year is generally April 15 of the following year—*i.e.,* the "time . . . fixed for filing the return (determined without regard to any extension of time for filing the return)." I.R.C. § 6151(a); *see* I.R.C. § 6072(a). Section 6151(c) provides an exception to this general rule: "In any case in which a tax is required to be paid on or before a certain date, or within a certain period, any reference in this title to the date fixed for payment of such tax shall be deemed a reference to the last day fixed for such payment (determined without regard to any extension of time for paying the tax)." Whenever another provision of the Code sets a different date than April 15 for payment of tax, section 6151(c) provides that this superseding deadline elsewhere in the Code shall be deemed to be the last date fixed or prescribed for payment.

Section 7508A(a)(1) is one such provision that imposes a superseding deadline on the payment of tax. A disregarded period under section 7508A(a)(1) is not an extension—as the Commissioner has repeatedly recognized. *See* Treas. Reg. § 301.7508A-1(b)(4) ("The postponement of the deadline of a tax-related act does not extend the due date for the act . . . ."); C.C.A. 202053013 (Dec. 31, 2020) ("[S]ection 7508A operates as a 'postponement' not an 'extension.'"). Underpayment interest does not accrue on tax that would otherwise become due during a disaster period because "the last day fixed for such payment" is the last day of a disaster period. I.R.C. §§ 6151(c), 6601(b)(1).

Under section 7508A(a)(1), a federally declared disaster period may be "disregarded in determining" whether certain acts (including the filing of a return and the payment of tax) "were performed within the time prescribed therefor." To "disregard" means "to pay no attention." *Disregard, Merriam-Webster.com*, https://www.merriam-webster.com/dictionary/disregard (last visited Aug. 9, 2026). Paying no attention to a disaster period in determining whether tax was timely paid means omitting the disaster period (plus 60 days) from the mathematical computation of the time prescribed for payment. In grammatical terms, section 7508A(a)(1) speaks in the indicative mood, altering the computation of the time prescribed for filing.[3] This, in turn, affects the computation of interest imposed under section 6601.

Other provisions of the Code *deem* otherwise-late acts to be timely. For example, section 7502(a)(1) provides in relevant part that:

> If any return, claim, statement, or other document required to be filed, or any payment required to be made, within a

[3] The heading of section 7508A is explicit that the statute *changes* prescribed deadlines: "Authority to *postpone certain deadlines* by reason of Federally declared disaster, significant fire, or terroristic or military actions." (emphasis added). While statutory headings "cannot limit the plain meaning of the text" of statute, they are permissible "tools available for the resolution of a doubt' about the meaning of a statute.'" *Almendarez-Torres v. United States*, 523 U.S. 224, 234 (1998) (quoting *Bhd. of R.R. Trainmen v. Balt. & Ohio R.R. Co.*, 331 U.S. 519, 528–29 (1947)).

> prescribed period or on or before a prescribed date under authority of any provision of the internal revenue laws is, after such period or such date, delivered by United States mail to the agency, officer, or office with . . . which such payment is required to be made, the date of the United States postmark stamped on the cover in which such return, claim, statement, or other document, or payment, is mailed *shall be deemed to be* . . . the date of payment.

Section 7503 provides that "[w]hen the last day prescribed under authority of the internal revenue laws for performing any act falls on Saturday, Sunday, or a legal holiday, the performance of such act *shall be considered timely* if it is performed on the next succeeding day which is not a Saturday, Sunday, or a legal holiday." Sections 7502 and 7503 speak in the subjunctive mood, "express[ing] a counterfactual hypothesis" that acts were performed timely even though they were not. *Klein v. Commissioner*, 149 T.C. 341, 351 (2017); *see Smith v. Commissioner*, 151 T.C. 41, 53–54 (2018) (construing statutory text "an amount equal to the tax which would be imposed . . . if such amounts were received by a domestic corporation"). Sections 7502 and 7503 have no impact on the last date prescribed for payment; instead, they treat a late act as if it had been timely performed prior to the last date.

In contrast, section 7508A(a)(1) changes the time prescribed for filing. It excludes a disaster period from the computation of the time prescribed to pay tax. And if the April 15 deadline falls within a particular disaster period, section 7508A(a)(1) requires payment by the last day of that disaster period (plus 60 days) instead of by April 15. The last day of the disaster period is "the date fixed for payment" under section 6151(c) when underpayment interest begins to accrue.

Treasury regulations and subregulatory authority confirm this plain meaning understanding of section 7508A(a)(1) as changing the deadline to file returns and pay tax.[4] First, Treas. Reg. § 301.7508A-1(b)(2) provides that "[w]hen an affected taxpayer is required to perform a tax-related act by a due date that falls within the postponement period, the affected taxpayer is eligible for postponement of time to perform the act until the last day of the period." In plain language, if payment is due by a date within a disaster period, the last day of the disaster period (plus 60 days) becomes the last day prescribed for payment. Second, Treas. Reg. § 301.7502-1(b)(4) confirms that section 7508A resets the last date prescribed for payment as the next business day after the disaster period:

> when the last date, or the last day of the period, prescribed for filing the document or making the payment falls within a period disregarded under section 7508 or section 7508A, the next succeeding day after the expiration of the section 7508 period or section 7508A period that is not a Saturday, Sunday, or legal holiday is treated as the last date, or the last day of the period, prescribed for filing the document or making the payment.

[4] While not in effect as of March 2020, Congress recently clarified this issue, amending section 6303(b) to expressly provide that, for purposes of notice and demand for payment, "the last date prescribed for payment of any tax shall be determined after taking into account any period disregarded under section 7508A." *See* Disaster Related Extension of Deadlines Act, Pub. L. No. 119-64, § 2(a), 139 Stat. 1984 (2025).

Finally, IRS notices consistently characterize section 7508A(a)(1) as postponing the due date to file returns and pay tax. *See, e.g.*, I.R.S. Notice 2020-18, 2020-15 I.R.B. 591 ("[T]he due date for filing Federal income tax returns and making Federal income tax payments due April 15, 2020, is automatically postponed to July 15, 2020."); I.R.S. Notice 2005-73, 2005-42 I.R.B. 723. While not binding on the Court, IRS guidance tracks the best understanding of section 7508A(a)(1).

Congress would not have enacted paragraph (a)(2)—which on its face is clearly intended to offer interest relief to taxpayers—to serve no role in the statutory scheme. *See Pulsifer*, 601 U.S. at 143 (recognizing that Congress does not pass laws or parts of laws with no effect). In light of paragraph (a)(1), section 7508A(a)(2) must be understood to address liabilities that became due before a disaster period to avoid being redundant and meaningless surplusage. *See Growmark, Inc.*, 160 T.C. at 486.

B. Congress amended section 7508A to provide for interest suspension

The history of section 7508A further demonstrates why paragraph (a)(2) should be read to apply to pre-disaster period liability. Congress first enacted section 7508A as part of the Taxpayer Relief Act of 1997, Pub. L. No. 105-34, § 911, 111 Stat. 788, 877–78 (1997). As originally codified, section 7508A(a) stated as follows:

> (a) In general. In the case of a taxpayer determined by the Secretary to be affected by a Presidentially declared disaster (as defined by section 1033(h)(3)), the Secretary may prescribe regulations under which a period of up to

> 90 days may be disregarded in determining, under the internal revenue laws, in respect of any tax liability (including any penalty, additional amount, or addition to the tax) of such taxpayer—
>
> (1) whether any of the acts described in paragraph (1) of section 7508(a) were performed within the time prescribed therefor, and
>
> (2) the amount of any credit or refund.
>
> (b) Subsection (a) shall not apply for the purpose of determining interest on any overpayment or underpayment.

Subsection (b) foreclosed relief with respect to "determining interest on any overpayment or underpayment."

Four years later, in the wake of the September 11th attacks, Congress overhauled section 7508A, allowing for more expansive relief. *See* Victims of Terrorist Tax Relief Act of 2001, Pub. L. No. 107-134, § 112(a), 115 Stat. 2427, 2433–34 (2002); Joint Comm. on Tax'n, 107th Cong., *Technical Explanation of H.R. 2884, the "Victims of Terrorism Tax Relief Act of 2001," as considered by the House on December 13, 2001*, JCX-86-01 (Dec. 13, 2001) ("The bill redrafts section 7508A to expand its scope and to clarify its application."). Congress eliminated the prohibition on relief from interest accrual under former subsection (b) and added a new paragraph (a)(2) that includes relief regarding "the amount of any interest, penalty, additional amount, or addition to the tax for periods after such date" of a federally declared disaster. Pub. L. No. 107-134, § 112(a), 115 Stat. at 2433.

As discussed, removing former subsection (b) was sufficient to relieve taxpayers from the accrual of interest on liability becoming due during a disaster period based on section 7508A(a). *See* Joint Comm. on Tax'n, 107th Cong., *Technical Explanation of H.R. 2884, the "Victims of Terrorism Tax Relief Act of 2001," as considered by the House on December 13, 2001*, JCX-86-01 (Dec. 13, 2001) ("The bill also clarifies that interest on underpayments may be waived or abated pursuant to section 7508A with respect to either a declared disaster or a terroristic or military action."). But Congress went further by adding the relief from the accrual of interest in paragraph (a)(2) "in respect of any tax liability"—not just liability that, but for section 7508A(a)(1), would become due during the disaster period. *See Ross v. Blake*, 578 U.S. 632, 641–42 (2016) ("When Congress amends legislation, courts must "presume it intends [the change] to have real and substantial effect.") (quoting *Stone v. INS*, 514 U.S. 386, 397 (1995)). Post-amendment, the three paragraphs of section 7508A(a) provide separate relief within the Commissioner's discretionary authority. *See* I.R.C. § 7508A(a) ("[T]he Secretary may specify . . ."); Treas. Reg. § 301.7508A-1(b)(5) ("The rules of this paragraph (b) demonstrate how the IRS generally implements section 7508A. The IRS may determine, however, that additional relief to taxpayers is appropriate and may provide additional relief to the extent allowed under section 7508A."). Congress's textual choices demonstrate that section 7508A(a)(2) had separate, independent meaning from the existing paragraph (a)(1).

II. Any ambiguity regarding the meaning of section 7508A(a)(2) should be resolved in favor of taxpayers

A longstanding canon of statutory construction, reaffirmed recently by the full Court, is that tax statutes are construed against the government and in favor of the taxpayer. *Apache Corp. & Subsidiaries v. Commissioner*, 165 T.C. 210, 228 (2025); *see id.* at 231 (Buch, J., concurring). This rule resolves any ambiguity in section 7508A(a)(2) in favor of suspending the accrual of interest on a pre-existing tax liability during a disaster period.

As the Supreme Court has explained, this canon of construction regarding tax statutes originates from English law:

> It is an old and familiar rule of the English courts, applicable to all forms of taxation, and particularly special taxes, that the sovereign is bound to express its intention to tax in clear and unambiguous language, and that a liberal construction be given to words of *exception* confining the operation of duty.

Eidman v. Martinez, 184 U.S. 578, 583 (1902); *see United States v. Merriam*, 263 U.S. 179, 188 (1923) (following English law that "'if the Crown, seeking to recover the tax, cannot bring the subject within the letter of the law, the subject is free, however apparently within the spirit of the law the case might otherwise appear to be'") (quoting *Partington v. Attorney General* (1869) L.R. 4 H.L. 100, 122). The

Supreme Court has long applied this canon to U.S. tax law. *See, e.g., Miller v. Standard Nut Margarine Co. of Florida*, 284 U.S. 498, 508 (1932) ("It is elementary that tax laws are to be interpreted liberally in favor of taxpayers, and that words defining things to be taxed may not be extended beyond their clear import. Doubts must be resolved against the government and in favor of taxpayers."); *Bowers v. New York & Albany Lighterage Co.*, 273 U.S. 346, 350 (1927) ("The provision is a part of a taxing statute; and such laws are to be interpreted liberally in favor of the taxpayers."); *Gould v. Gould*, 245 U.S. 151, 153 (1917) ("In case of doubt [statutes levying taxes] are construed most strongly against the government, and in favor of the citizen."). Courts other than this one have also recently applied the canon in construing otherwise-ambiguous procedural tax statutes. *See, e.g., Borenstein v. Commissioner*, 919 F.3d 746, 752 (2d Cir. 2019) (section 6512(b)(3)'s refund lookback rules); *United States v. Marshall*, 798 F.3d 296 (5th Cir. 2015) (section 6234(b)'s gift tax lien on donees).

Petitioners present a compelling argument that section 7508A(a)(2) and (d) effected a mandatory suspension of interest accruing on pre-existing tax liabilities during the nationally declared COVID-19 disaster period. That conclusion is reinforced by the statutory analysis in the prior section and by the other *amici*. Any lingering doubt is resolved by the ancient canon that tax laws are construed narrowly, and specifically that "liberal construction be given to words of *exception*." *Eidman*, 184 U.S. at 583. Even to assume the Commissioner presents a plausible alternative interpretation, the Court should break the tie by construe section 7508A(a)(2) broadly to apply to pre-existing tax liability along with tax liability arising during the disaster period.

In addition, section 7508A is a remedial statute which should be "liberally construed to effectuate its remedial purpose." *Washington v. Commissioner*, 120 T.C. 137, 155–56 (2003) (quoting *Flores v. United States*, 51 Fed. Cl. 49, 53 (2001)); *see, e.g., Northeast Marine Terminal Co. v. Caputo*, 432 U.S. 249, 268 (1977) (interpreting a statute expansively consistent with its language and remedial purpose); *Nehi Beverage Co. v. Commissioner*, 16 T.C. 1114, 1119 (1951) ("[T]his Court, and other courts, have uniformly recognized this remedial intent of Congress and have construed the statutory language liberally."); *Ransohoff's, Inc. v. Commissioner*, 9 T.C. 376, 382 (1947) ("It is a remedial measure and, as such, it is axiomatic that it be construed liberally.").

Exxon Mobil Corp. & Affiliated Cos. v. Commissioner, 689 F.3d 191 (2d Cir. 2012), illustrates how these interpretive canons should apply in this case. *Exxon Mobil* concerned a "special rule" regarding interest netting under section 6621(d), allowing corporations to pay a net interest rate of zero when a corporation had an overpayment and an underpayment in equal amounts for the same tax year, even though the underpayment interest rate for corporations is higher than the overpayment interest rate. Congress enacted section 6621(d) in the Internal Revenue Service Restructuring and Reform Act of 1998, Pub. L. No. 105-206, § 3301(a), 112 Stat. 685, 741, along with the off-Code "special rule" that extended interest netting to earlier tax years "[s]ubject to any applicable statute of limitations not having expired with regard to either a tax underpayment or a tax overpayment," *id.* at § 3301(c)(2), 112 Stat. at 741. The issue in *Exxon Mobil* was whether the special rule required both the underpayment and overpayment limitations period to be open or whether one open limitations period sufficed. 689 F.3d at 194.

The Second Circuit determined that "the language of the special rule is ambiguous" and invoked the aforementioned interpretive canons in adopting the broader reading making interest netting available so long as one limitations period remains open. *Id.* at 195. First, the Second Circuit stated, "we are particularly mindful of the longstanding canon of construction that where 'the words [of a tax statute] are doubtful, the doubt must be resolved against the Government and in favor of the taxpayer.'" *Id.* at 199–200 (quoting *Merriam*, 263 U.S. at 188). Second, the court recognized the remedial nature of the special rule as intended "to erase the inequitable effects of the interest rate differential" between the underpayment and overpayment interest rates. *Id.* at 203. In light of that purpose, the court interpreted the statute "broadly to effectuate Congress's remedial goals." *Id.* at 204.

These canons are equally applicable in this case. As with the interest netting rules, section 7508A presents a clear instance of Congress enacting broad, procedural relief for taxpayers from the otherwise-mechanical imposition of underpayment interest. In light of that purpose, courts should construe the text broadly. *See also* Joint Comm. on Tax'n, 107th Cong., *Technical Explanation of H.R. 2884, the "Victims of Terrorism Tax Relief Act of 2001," as considered by the House on December 13, 2001*, JCX-86-01 (Dec. 13, 2001) ("It is intended that the Secretary construe this authority as broadly as is necessary and appropriate to respond to specific disasters or terroristic or military actions.").

Further support for this conclusion that any interpretive choices presented by section 7508A should be made in favor of taxpayers can be found in Judge Murphy's concurrence in *Flight Options, LLC v. United States*, 177 F.4th 709 (6th Cir. 2026). Judge Murphy set out to untangle "the confusing conflict in the Supreme Court's caselaw on the governing canons for interpreting the federal tax laws." *Id.* at 724. On the one hand are cases discussed above that resolve ambiguity in favor of taxpayers. On the other hand are cases, typically of a more recent vintage, that characterize deductions and credits as matters of "legislative grace . . . and only as there is clear provision therefore can any particular deduction be allowed." *New Colonial Ice Co. v. Helvering*, 292 U.S. 435, 440 (1934); *see, e.g., Mayo Found. for Med. Educ. & Rsch. v. United States*, 562 U.S. 44, 59–60 (2011); *Indopco, Inc. v.*

Commissioner, 503 U.S. 79, 84 (1992); *Interstate Transit Lines v. Commissioner*, 319 U.S. 590, 593 (1943). The latter pro-government canon is inapplicable in this case because section 7508A(d) is not a deduction or credit. Regardless, as Judge Murphy explained, "courts should adhere to the pro-taxpayer canon because it has a stronger foundation." *Flight Options*, 177 F.4th at 725.

The canon interpreting tax statutes in favor of taxpayers goes back centuries with roots in English law and qualities that resemble the rule of lenity to interpret penal statutes narrowly. *Id.* at 725–26. Both canons serve fundamental separation-of-powers interests, for example, "[j]ust as Congress must clearly delegate its power to allow the Executive Branch to create a crime, so too it must clearly delegate its power to allow the Executive Branch to impose (at the least) an internal tax." *Id.* at 727 (citation omitted). In resolving any ambiguity in section 7508A in favor of the taxpayers, the Court would be faithfully giving effect to the text enacted by Congress and the fundamental background presumptions upon which it legislates.

Finally, in applying the remedial purpose canon, the Court should consider the disproportionate impact of section 7508A relief on low-income taxpayers. While "no amount of policy-talk can overcome plain statutory text," *LaRosa v. Commissioner*, 176 F.4th 323, 328 (4th Cir. 2026) (quoting *Julmice v. Garland*, 29 F.4th 206, 210 (4th Cir. 2022)), substantive canons of construction inevitably "advance values external to a statute," *Biden v. Nebraska*, 600 U.S. 477, 508 (2023)

(Barrett, J., concurring). Section 7508A was enacted and broadened to help taxpayers experiencing significant financial and practical burdens due to federally declared disasters. Low-income taxpayers are least-equipped to financially withstand and recover from an unexpected disaster. Construing section 7508A to relieve such taxpayers from underpayment interest accrual on their past-due liabilities is consistent with Congress's remedial purpose and is a step towards ensuring that the Commissioner "act in accord with taxpayer rights as afforded by [the Code], including . . . the right to a fair and just tax system." I.R.C. § 7803(a)(3)(J).

CONCLUSION

For the foregoing reasons, the Court should grant Petitioners' motion for partial summary judgment and determine that the period from January 20, 2020, through July 10, 2023, must be disregarded under section 7508A(d) in computing underpayment interest.

Respectfully submitted,

GRAY R. PROCTOR
T.C. Bar No. PG21707
Kostelanetz LLP
309 E. Paces Ferry Road, NE
4th Floor
Atlanta, GA 30305
Tel: (404) 301-4791
Fax: (678) 680-7901
gproctor@kostelanetz.com

ANDREW WEINER
T.C. Bar No. WA21389
Kostelanetz LLP
601 New Jersey Ave, NW
Suite 260
Washington, D.C. 20001
Tel: (202) 875-8000
Fax: (212) 808-8108
aweiner@kostelanetz.com

MICHAEL S. WAALKES
T.C. Bar No. WM23527
Kostelanetz LLP
601 New Jersey Ave, NW
Suite 260
Washington, D.C. 20001
Tel: (202) 790-6998
Fax: (212) 808-8108
mwaalkes@kostelanetz.com

Dated: August 28, 2026

CERTIFICATE OF SERVICE

This is to certify that the foregoing brief was served on the parties on the 28th day of August 2026 by emailing an electronic copy to the following addresses:

Counsel for Petitioner: rkhoury@taylorlaw.com; jamitrano@taylorlaw.com; ltaylor@taylorlaw.com; dsoto@taylorlaw.com

Counsel for Respondent: vincent.a.gonzalez@irscounsel.treas.gov; jeremy.j.eggerthy@irscounsel.treas.gov

Counsel for Amicus Curiae, Tax Dispute Resolution Clinic at Texas A&M University School of Law: probasco@law.tamu.edu; peter.lowy@nelsonmullins.com; bmgovern@stcl.edu

ANDREW WEINER