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Michael J. Wepplo & Tatyana R. Wepplo,

Petitioners

v.

Commissioner of Internal Revenue

Respondent

Docket No. 36722-21
Document No. 79

Brief of the Community Tax Law Project and Charlotte Center for Legal Advocacy's North Carolina Low-Income Taxpayer Clinic as Amici Curiae ("Amici") In Support of Petitioners

SERVED 09/01/26

UNITED STATES TAX COURT

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

BRIEF OF THE COMMUNITY TAX LAW PROJECT AND CHARLOTTE CENTER FOR LEGAL ADVOCACY'S NORTH CAROLINA LOW-INCOME TAXPAYER CLINIC AS AMICI CURIAE ("AMICI") IN SUPPORT OF PETITIONERS

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INTEREST OF AMICI CURIAE

Amici are The Community Tax Law Project and the Charlotte Center for Legal Advocacy North Carolina Low-Income Taxpayer Clinic. The Community Tax Law Project is the oldest independent low-income taxpayer clinic in the United States. It represents taxpayers in the Commonwealth of Virginia. The North Carolina Low-Income Taxpayer Clinic is a program of the Charlotte Center for Legal Advocacy. It is also a low-income taxpayer clinic, and it represents taxpayers in North Carolina.

On July 2, 2026, the Honorable Mark Holmes, Judge, ordered that any motions for leave to file a brief under Rule 151.1 by an *amicus curiae* must be filed by August 28, 2026.[1] (Doc. 50). An issue in the case is whether section 7508A(d) creates a mandatory postponement period from January 20, 2020 through July 10, 2023, which triggers suspension of underpayment interest accrual for unpaid tax debt, regardless of when the unpaid tax debt arose. Resolution of this issue will affect the amounts owed to the Service by the populations served by Amici.

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[1] Rule references are to the Tax Court Rules of Tax Practice and Procedure. "Doc." references are to the docket entries filed on DAWSON in this case. Unless otherwise indicated, section references are to the United States Code Title 26, as amended and in effect during the years at issue. References to the Commissioner are to the respondent in this case. References to the Service are to the agency, institutionally.

No publicly traded corporation owns 10% or more of any Amici. Amici's authority to file this brief is from the Court's Order dated July 2, 2026. (Doc. 50). Neither party's counsel authored any part of this brief. Neither party, nor their counsel, nor any other person other than counsel for Amici, contributed money to fund this brief's preparation or submission.

ARGUMENT

I. Introduction

During the COVID-19 pandemic, those who experienced the worst of it died, watched loved ones die, or were very sick for prolonged periods. For the lucky ones, the pandemic was exceptionally disruptive personally and professionally. The stress over money, health, safety, and childcare was immense for many of the clients served by Amici. The disaster that was the COVID-19 pandemic affected them directly and personally.

On December 20, 2019, Congress enacted subsection (d) of section 7508A.[2] Subsection (d) references section 7508A(a), which in turn references section

[2] On November 15, 2021, sec. 7508A(d)(1) was amended to alter the mandatory relief period for disaster declarations declared after November 15, 2021, such that the mandatory relief period under sec. 7508A(d) ended 60 days after the later of the earliest incident date or the date the declaration was issued. Infrastructure Investment and Jobs Act, Pub. L. 117-58 § 8051, 135 Stat. 429, 1335. The argument in this brief regards sec. 7508A(d) only as in effect for disasters declared after December 20, 2019 and before November 16, 2021.

7508(a). When read together, the conclusion is clear: under section 7508A(d), the period starting with the beginning date (January 20, 2020) and running through the ending date (May 11, 2023) of the COVID-19 disaster period, plus 60 days (July 10, 2026) is disregarded when determining interest owed by taxpayers on an underpayment. This relief applies regardless of whether the underlying act giving rise to the underpayment occurred before the disaster period.

On March 13, 2020, President Trump declared that the COVID-19 pandemic was a nationwide emergency under the Stafford Act "beginning January 20, 2020 and continuing." The declaration was amended so the disaster period would "close effective May 11, 2023."[3] As is relevant to Mr. and Mrs. Wepplo and as noted by the Commissioner, a major disaster declaration was likewise issued for California. 85 Fed. Reg. 20703 (Apr. 14, 2020); (Doc. 45, at 5). For the clients of Amici and for taxpayers throughout the country, substantially similar disaster declarations were declared for every state, all with identical beginning and closing dates.[4]

In *Kwong v. United States,* 179 Fed. Cl. 382, 388 (2025), *appeal pending,* No. 26-1843 (Fed. Cir.) (May 15, 2026), the U.S. Court of Federal Claims held: "Under the express text of the statute, the automatic extension lasted until after the

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[3] The COVID-19 declarations are listed by the Federal Emergency Management Agency (FEMA) and published in the Federal Register.
[4] *See* www.fema.gov/covid-19 (last visited Aug. 27, 2026).

end of the disaster declaration, or, in the case of the COVID-19 disaster, until July 10, 2023 (60 days after its end date of May 11, 2023)." Although not binding authority, the court in *Kwong* reached the correct conclusion. The Tax Court should extend its holding in *Abdo v. Commissioner*, 162 T.C. 148 (2024), *action on dec.* 2006-001 (June 1, 2026), to interpret section 7508A(d) as a self-executing statute which (1) consistent with *Kwong*, yielded a disregarded period from January 20, 2020 through May 11, 2023, plus 60 days; and (2) triggered suspension of underpayment interest accrual on pre-disaster liabilities.

Suspension of underpayment interest on pre-disaster liabilities accords with the long-standing interpretation of the historical statutory language. This result makes good sense: accrual of interest during a disaster—whether with respect to a pre-period liability or a liability arising during the disaster—is not "pre-disaster." This conclusion squares with the understanding that section 7508A(d) is a relief provision that should be liberally construed. For these reasons, and as explained herein, Amici are filing this brief in support of petitioners.

II. Evolution of Relief from Interest for Liabilities that Pre-date the Triggering Event

The operative language of section 7508A(a)(1) is based on predecessor provisions dating back to 1942, which have been consistently understood to suspend accrual of interest on tax liabilities that arise before a disregarded period.[5] The language originated in the context of World War II with section 3804(a) of the Internal Revenue Code of 1939. The language was used in section 7508(a) of the Internal Revenue Codes of 1954 and 1986. The language was then imported into section 7508A(a), which provides discretionary disaster relief.

Section 7508A(d), as enacted in 2019, explicitly referred to section 7508A(a), which both explicitly refers to and echoes the operative language of section 7508. The meaning of section 7508A(d) and section 7508A(a)(1) must therefore be interpreted through the lens of that history, which confirms that underpayment interest is suspended by a disregarded period, even for pre-disaster acts. Accordingly, under section 7508A(d), accrual of underpayment interest must be suspended by the disregarded period that ran from January 20, 2020 to July 10, 2023, including for liabilities that arose before then.

A. Section 3804 of the Internal Revenue Code of 1939

The concept of disregarding a period of time in determining a tax liability traces back to World War II and section 3804 of the Internal Revenue Code of

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[5] As discussed herein, in the context of sec. 7508A(a)(1) when *not* applied through sec. 7508A(d), this suspension has been subject to the discretion of the Secretary and was, for a time, disallowed by separate statutory provision.

1939, which disregarded time individuals spent overseas. In relevant part, the law provided:

> (a) The period of time [based on an individual's overseas absence] shall be disregarded in determining, under the internal revenue laws, in respect of any tax liability (including any interest, penalty, additional amount, or addition to the tax) of such individual—
>
> > (1) Whether any of the following acts was performed within the time prescribed therefor:
> >
> > > . . .
> > >
> > > (B) Payment of any income, estate, or gift tax . . . or any installment thereof or of any other liability to the United States in respect thereof;
> > >
> > > . . .
> >
> > (2) The amount of any credit or refund (including interest).

Revenue Act of 1942, Pub. L. 77-753 § 507 (Oct. 21, 1942), 56 Stat. 798, 961–62.[6]

Courts have consistently interpreted section 3804 to suspend accrual of interest that relates to pre-event liabilities. In 1948 and 1952, the Court of Claims applied section 3804 to suspend interest on an overpayment that arose prior to the disregarded period at issue. *See Tree v. United States*, 75 F. Supp. 467 (Ct. Cl. 1948); *Higginson v. United States*, 101 F. Supp. 763 (Ct. Cl. 1952). A U.S. district court held similarly with respect to underpayment interest. *See Hogg v. Allen*, 105

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[6] Congress viewed interest resulting from tax during this period as "in reality not incurred" because sec. 3804 vitiated any obligation. H. Rep. No. 2586, 77th Cong., 2d Sess. (1942), at 73-74.

F. Supp. 12, 20 (M.D. Ga. 1952) ("[n]either of the veterans . . . owes any interest during or with respect to the respective periods during which they were continuously outside the Americas, and the next 90 days thereafter," where liability arose before the veterans left the Americas), *aff'd on this issue sub nom. Edwards v. Hogg*, 214 F.2d 640 (5th Cir. 1954).

B. Section 7508 of the Internal Revenue Codes of 1954 and 1986

When the Internal Revenue Code of 1954 was enacted, section 3804 (which had been amended in immaterial ways since its enactment) was reenacted as section 7508(a), which provided, in relevant part:

> (a) In the case of an individual [serving in or in support of the Armed Forces or hospitalized under certain circumstances] the period [based on the individual's service and hospitalization] shall be disregarded in determining, under the internal revenue laws, in respect of any tax liability (including any interest, penalty, additional amount, or addition to the tax) of such individual—
>
> (1) Whether any of the following acts was performed within the time prescribed therefor:
>
> . . .
>
> (B) Payment of any income, estate, or gift tax . . . or any installment thereof or of any other liability to the United States in respect thereof;
>
> . . .
>
> (2) The amount of any credit or refund (including interest).

An Act to Revise the Internal Revenue Laws of the United States, Pub. L. 83-591, at 898.

The Service has consistently applied this language to suspend interest accrual even for liabilities arising before the disregarded period. *See* Notice 96-34 Q&A 25 ("Because your son is serving in the qualified hazardous duty area, he will not have to make payments on his past due taxes.... No penalties or interest will be charged during the deadline extension period."); Internal Revenue News Release IR-96-21 (Apr. 12, 1996) ("During this time no interest or penalties will be added to the tax due" "on back taxes".); Rev. Proc. 60-17 § 9, 1960-2 C.B. 942 ("No interest is charged on any deficiency or allowed on any overpayment during the period to be disregarded [under section 7508]").

C. Section 7508A as Enacted in 1997

In 1997, Congress drew upon the language in section 7508 to address disaster relief in new section 7508A(a), which read:

> (a) In the case of a taxpayer [determined to be affected by a disaster], 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.

Taxpayer Relief Act of 1997, Pub. L. 105-34 § 911, 111 Stat. 788, 877.

When section 7508A was enacted, section 7508A(b) explicitly prevented section 7508A(a)(1) from suspending interest accrual for underpayments. This confirms Congress's understanding that section 7508A(a)(1) otherwise would have reached that interest—just as it did in sections 7508 and 3804. Congress instead provided a more limited form of underpayment interest relief in a non-codified portion of the enacting legislation. *Id.* § 915, 111 Stat. 879. That limited form of interest relief was continued through section 6404(h) until section 7508A was amended in 2002, as described below.

In 1999, the preamble to proposed regulations under section 7508A(a) confirmed Treasury's understanding that, but for since-repealed section 7508A(b)'s disallowance of interest relief, section 7508A(a)(1) would allow suspension of interest accrual on pre-period liabilities. *See* NPRM REG-101492-98, 64 Fed. Reg. 73445 (Dec. 30, 1999) ("Pursuant to section 7508A(b), the provision does not apply for purposes of determining interest on any overpayment or underpayment (if the underpayment arose prior to the disaster).").

The regulations were finalized the next year, providing penalty suspension for pre-period liabilities in example 6 (disregarding penalties but not interest associated with a pre-disaster failure) and example 7 (same), but not interest. 65 Fed. Reg. 78409, 78412–13 (Dec. 15, 2000). The reason interest suspension did not also apply to pre-disaster acts in the regulatory examples is because the regulations were finalized before the statute was later amended to permit interest suspension. Thus, disregarding since-repealed section 7508A(b)'s bar on interest relief, section 7508A(a)(1) should encompass interest suspension for pre-disaster liabilities.

D. Section 7508A as Amended in 2002

In response to the September 11th attacks in 2001, Congress repealed section 7508A(b)'s bar on interest relief and added new language directly addressing interest relief.[7] Post-amendment, section 7508A(a)(2) "disregard[s a period] in determining . . . in respect of any tax liability of [a] taxpayer . . . the amount of any interest, penalty, additional amount, or addition to the tax for periods after such

[7] Consistent with the addition of interest in subsec. (a), Congress deleted subsec. (b) (which previously stated that interest did not apply). Congress intended for the Secretary to construe sec. 7508A as "broadly as is necessary and appropriate to respond to specific disasters or terroristic or military actions." Joint Comm. on Tax'n, *Technical Explanation Of the Victims of Terrorism Tax Relief Act Of 2001, As Passed By The House And The Senate On December 20, 2001* (JCX-93-01), at 20. Because this language is in the Blue Book, it is only persuasive authority, *U.S. v. Woods,* 571 U.S. 31, 47-48 (2013), but it is highly persuasive.

date."[8] Victims of Terrorism Relief Act of 2001, Pub. L. 107-134, 115 Stat. 2427, 2433-34. The Service has repeatedly used this authority to suspend interest accrual for pre-period liabilities.

In 2005 and 2006, the Service suspended interest accrual during a disaster period for a pre-period liability as long as an extended filing due date relating to the liability reached into the disaster period. *See, e.g.*, Notice 2005-73 ("[A]ny interest . . . accruing as of August 29, 2005 . . . would stop accruing as of that date and would start accruing again after January 3, 2006"); Notice 2006-56 ("Under Notice 2006-20, . . . affected taxpayers already received an entire year of relief from interest and failure to pay penalties for any payment due for the 2004 tax year. Such a payment would otherwise have been due on April 15, 2005. Interest and failure to pay penalties would accrue from April 15, 2005, until August 28, 2005, but were suspended by Notice 2006-20 from August 29, 2005, through August 28, 2006, the maximum one year allowed by section 7508A.").

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[8] Although secs. 7508A(a)(1) and (a)(2) substantially overlap in their provision of relief from accrual of interest and penalties during a disregarded period, sec. 7508A(a)(2) is not redundant. It provides certain relief that is unavailable under sec. 7508A(a)(1). Sec. 7508A(a)(1)'s relief is defined by acts listed in sec. 7508(a)(1)—acts that do not include, for example, certain information reporting obligations. Sec. 7508A(a)(2)'s relief, however, reaches all interest and penalties, regardless of their connection to an act listed in sec. 7508(a)(1).

Further, the Service suspended interest accrual under section 7508A(a)(2) for many pre-disaster liabilities *during the COVID-19 pandemic itself.* In early 2020, key printing sites closed. Despite the closures, the Service's computer systems continued to generate notice and demand letters. When the sites reopened, over one million pre-generated letters were printed and mailed. The printing delays caused the letters to report outdated interest accruals. In technical advice to program managers, the Service concluded it could suspend interest accrual under section 7508A(a)(2) for taxpayers who received the letters. *See* PMTA 2020-07 at 7; Notice 1052-A insert (May 2020).[9] The IRS applied section 7508A(a)(2) to suspend interest accrual for tax liabilities that arose as early as 2012. *See, e.g., Texas Truck Parts & Tire, Inc. v. U.S.*, No. 4:21-cv-02055 (S.D. Tex. Dec. 5, 2022) (ECF 41-8).

Even today, the Service routinely suspends interest accrual for pre-period liabilities whose extended payment due date reaches into a disaster relief period. Underpayment interest begins accruing on such liabilities unpaid by the original due date, then is suspended for the relief period. *See* I.R.C. § 6601(b)(1); Treas. Reg. §§ 1.6161-1(d) and 301.7508A-1(b)(3)(ii).

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[9] IRS Catalog Number 74373U. Notice 1052-A insert is available at https://www.irs.gov/newsroom/notice-1052-a-insert.

E. Treasury's Limited Exercise of its Authority Does Not Limit The Scope of Section 7508A(a)

The Commissioner suggests that examples in the regulations under section 7508A(a) (examples 2 and 6(iii) in section 301.7508A-1(f) of the Treasury Regulations) demonstrate that interest relief is impossible under section 7508A(a) for pre-period liabilities. (Doc. 45, at 9). In doing so, the Commissioner fails to take into account that these examples speak only to how Treasury chooses to exercise its discretionary authority under section 7508A(a). They do *not* purport to describe the full scope of possible relief under section 7508A(a). See 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.").

F. Addition of Subsection (d) and Connecting the Dots

On December 20, 2019, Congress added a new subsection (d) to section 7508A.[10] Pub. L. 116-94 (section 205(a) of Division Q (Taxpayer Certainty and

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[10] The Commissioner cited H. Rept. 116-379 as legislative history to sec. 7508A(d). (Doc. 45, at 2, 14-15). Procedurally, that report is not legislative history to the law that was enacted into sec. 7508A(d). To explain, in 2019, six bills were introduced in Congress addressing disaster relief (H.R.2145, H.R.2284, H.R.3301, S.617, S.1133, S.4621). The House Ways and Means Committee issued a committee report, H. Rept. 116-379, discussing H.R. 3301. The language in sec. 305 of H.R. 3301 is the same language that became sec. 7508A(d), but H.R. 3301

Disaster Tax Relief Act of 2019)). As enacted and in effect for disasters declared after December 20, 2019, section 7508A(d)(1) provided that, for any "qualified taxpayer":[11]

> the period—
>
> (a) beginning on the earliest incident date specified in the declaration to which the disaster area referred to in paragraph (2) relates, and
>
> (b) ending on the date which is 60 days after the latest incident date so specified,
>
> shall be disregarded in the same manner as a period specified under subsection (a).

As held by this Court in *Abdo v. Commissioner*, section 7508A(d)(1) applies all taxpayer relief that is potentially available under section 7508A(a). And as explained in the preceding discussion, that taxpayer relief includes suspension of interest accrual for pre-period liabilities.

Nothing in section 7508A(d) or section 7508A(a) excludes pre-period liabilities from the scope of this relief. To the contrary, Treasury has consistently—including to this day—applied the statutory language to suspend interest accrual

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was never enacted. See https://www.congress.gov/bill/116th-congress/house-bill/3301/all-actions (last visited Aug. 27, 2026).

[11] A "qualified taxpayer" is generally any taxpayer located in a disaster area. Sec. 7508A(d)(2).

for pre-period liabilities. Doing so makes sense: a period is disregarded in calculating tax liability; underpayment interest is part of tax liability; and underpayment interest accrues over time until the liability is paid in full.[12] *See* section 6601(e)(1) ("Any reference in this title . . . to any tax imposed by this title shall be deemed also to refer to interest imposed by this section on such tax.").

III. Relief Statute

The Commissioner states that the statutory relief sought by the plaintiffs and by those similarly situated constitutes an "elephant[]" in a "mousehole" and that plaintiffs' interpretation should be disfavored on that basis. (Doc. 45, at 28). The interpretation of the statute begins with the text. Under a plain reading of the relevant statutes, interest suspension applies to pre-disaster acts. The notion that Congress would enact a law pausing accrual of interest on outstanding tax

[12] The calculation of underpayment interest requires three variables: one, the "underpayment rate"; two, the date that underpayment interest starts accruing; and three, the date that underpayment interest stops accruing. Sec. 6601(a). That third variable is why cases involving underpayment interest calculations imbue urgency for *both* taxpayers and the Commissioner: if payment occurs outside the window of the calculation, a new interest calculation is required, which takes time and coordination within the Service (*i.e.*, it creates unnecessary work). *See* IRM 20.2.1.1.2 (12-26-2024) (requiring interest until the date paid); IRM 20.2.1.3.1.2(2) (04-27-2016) (noting that sec. 6622(a) generally requires the compounding of interest daily); IRM 20.2.1.4(1) (01-25-2021) (computing interest until the date the liability is "fully paid"); IRM 20.2.5.1.2 (07-08-2025) (interest compounded daily); IRM 20.2.5.2(1) (05-11-2023) (underpayment interest is charged on an outstanding liability until the date fully paid); IRM 20.2.5.2.2(1) (07-08-2025) (interest accrues on a liability (tax, penalties, additions to tax and/or interest) until it is fully paid).

liabilities during a federally declared disaster is hardly surprising. If the Service's concern is the duration of the COVID-19 disaster (and concomitant relief), as stated by the court in *Kwong*, "[a]lthough Congress may not have anticipated a disaster declaration lasting more than three years, the statute's express text nevertheless applies." 179 Fed. Cl. at 387.

There is no dispute that section 7508A is a relief provision. (Doc. 45, at 14-15). As a remedial provision, it should be liberally—not restrictively—construed. *Peyton v. Rowe*, 391 U.S. 54, 65 (1968).

CONCLUSION

The language in section 7508A(a)(1) carried over 50 years of settled meaning from its application in section 7508(a) and its predecessor that illuminates the scope of relief available under section 7508A(a)(1). *See, e.g.*, SCA 200038046 (looking to caselaw interpreting section 7508 and its predecessor to ascertain meaning of section 7508A(a)(1)). In turn, that meaning carries through to the relief mandated by section 7508A(d) because, as this Court noted in *Abdo v. Commissioner*, "in subsection (d) . . . we see a near mirror image of section 7508(a)." 162 T.C. at 166.

The history of sections 7508A(a), 7508, and 3804 and how the Service has administered those provisions make clear that suspended interest during the

COVID-19 disaster applies to pre-disaster acts. Section 7508A(d), as passed in 2019, required that the duration of a federally declared disaster plus 60 days be disregarded for purposes of tax filing and payment deadlines, which include the suspension of interest accrual for pre-disaster liabilities until those liabilities are paid in full. Applying the plain text of section 7508A(d) matters—both for the relief taxpayers like the Petitioners are entitled to receive and for the principle that Congress's laws bind taxpayers and the Commissioner alike.

Respectfully submitted on behalf of Amici:

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UNITED STATES TAX COURT

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Petitioners,	)	
v.	)	Docket No. 36722-21
COMMISSIONER OF INTERNAL REVENUE,	)	
Respondent.	)	Judge Holmes

CERTIFICATE OF SERVICE

On August 28, 2026, with advance consent of counsel for the parties, I emailed a copy of the Motion for Leave to File Brief as Amici Curiae on behalf of the Community Tax Law Project and the Charlotte Center for Legal Advocacy North Carolina Low-Income Taxpayer Clinic and brief, which was an exhibit to the motion, as well as this certificate of service. In addition, I caused this certificate of service to be mailed by first-class mail, postage prepaid to:

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