

15.

**APPENDIX A. (1.)**

T.C. Memo. 2021-129

**UNITED STATES TAX COURT**

Bernard D. Holland

Petitioner

v.

Commissioner of Internal

Respondent

Revenue

Docket No. 7115-20

Filed November

18, 2021

Bernard D. Holland, pro se.

Ashley M. Bender, Timothy J. Driscoll and Amy Dyar

Seals, for respondent.

**MEMORANDUM OPINION**

“LAUBER, Judge: The principal question in this case is whether petitioner is taxable on retirement income he received during 2017. Conceding that he received these

payments, petitioner asserts that they did not constitute taxable income because they were received in exchange for his prior labor and were unconnected [\*2] with his exercise of any Federal privilege. The parties have submitted the case for decision without trial under Rule 122.<sup>1</sup> Concluding that petitioner fares no better than other tax protesters who have advanced these arguments previously, we will enter decision for respondent.

#### Background

The following facts are derived from the pleadings, a stipulation of the facts, a supplemental stipulation of facts, and the exhibits attached thereto. Petitioner resided in North Carolina when he timely petitioned this Court.

Petitioner was retired during 2017. He had previously been employed as a service technician by PepsiCo. He drove a truck for a period of time and was a member of the Teamsters union.

---

<sup>1</sup>

During 2017 petitioner received Social Security benefits of \$26,292. The Social Security Administration (SSA) reported these payments to petitioner and the Internal Revenue Service (IRS or respondent) on a Form SSA-1099, Social Security Benefit Statement. SSA withheld no tax from these payments.

During 2017 petitioner received a distribution of \$20,928 from a retirement plan of which Fidelity Investments (Fidelity) was the custodian. Fidelity reported[\*3] this distribution to petitioner and the IRS on a Form 1099-R, Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc., checking the box for distribution code "7", indicating a normal distribution. Fidelity withheld no tax from this distribution.

---

All statutory references are to the Internal Revenue Code in effect at all relevant times, and all Rule references are to the Tax Court Rules of Practice and Procedure. We round monetary amounts to the nearest dollar.

During 2017 petitioner received a distribution of \$4,200 from the Western Pennsylvania Teamsters and Employers pension Fund (Pension Fund). The Pension Fund reported this distribution to petitioner and the IRS on a Form 1099-R, checking the box for distribution cod "7", indicating a normal distribution. The Pension Fund withheld tax of \$194 from this distribution.

In preparing his Form 1040, U.S. Individual Income Tax Return, for 2017, petitioner did not use the information on Forms 1099-R. Rather, he attached to his return two Forms 4852, Substitute for Form W-2 or Form 1099-R that he himself drafted. Taxpayers are instructed to complete a Form 4852 if their payor "doesn't issue\*\*\* Form 1099-R" or "Has issued an incorrect\*\*\* Form 1099-R." On the Forms 4852 petitioner asserted that Fidelity and the Pension Fund had made distributions of zero.

Petitioner reported on his return retirement plan

distributions of zero, taxable Social Security benefits of zero. He reported tax [\*4} payments of \$2,892, whereas only \$194 had been actually been withheld by his payors. He asked that his purported overpayment be refunded to him.

At a time not disclosed by the record, petitioner submitted to the IRS an unsigned Form 1040 reporting the information listed above. On May 3, 2018, the IRS sent that document back to him and told him that he needed to sign the return. He signed the return on May 6, 2018, and filed it with the IRS. The return is stamped "received" by the Kansas City Service Center on June 4, 2018. Petitioner's account transcript likewise shows that the return was received by the IRS on June 4, 2018.

On February 24, 2020 the IRS issued petitioner a timely notice of deficiency for 2017 determining a deficiency of \$4,413, an accuracy-related penalty of \$1,422

under section 6662(a), and a late-filing addition to tax of \$442 under section 6651(a)(1). The notice incorrectly asserted that petitioner had received \$52,584 of Social Security benefits, double the mount he actually received. That error was evidently caused by SSA's issuance of two separate Forms SSA-1099, addressed to petitioner at two different addresses.

Respondent concedes that petitioner in 2017 received only \$26,292 of Social Security benefits, the taxable amount of which respondent calculates as \$8,143, as opposed to \$19,317 as determined in the notice of deficiency. That concession [\*5] reduces the deficiency to \$2,734 and reduces the late-filing addition to tax to \$254. Respondent also concedes the accuracy-related penalty. See sec. 6751(b)

A. Gross Income

Section 61(a) provides that "gross income means all income from whatever source derived," including

“[c]ompensation for services.” Sec. 61(a)(1). In cases of unreported income, the Commissioner must generally establish an evidentiary foundation connecting the taxpayer to the income-producing activity, *Weimerskirch v. Commissioner*, 596 F.2d 258, 361 (9<sup>th</sup> Cir. 1979), rev’g 67 T.C. 672 (1977), or demonstrate that the taxpayer actually received income, *Edwards v. Commissioner*, 680 F.2d 1268, 1270 (9<sup>th</sup> Cir. 1982). Information supplied to the IRS on Forms W-2 and 1099 is sufficient to meet this burden. See *Hardy v. Commissioner*, 181 F.3d 1002, 1005 (9<sup>th</sup> Cir. 1999), aff’g T.C. Memo. 1997-97. Once the Commissioner makes the required threshold showing, the burden shifts to the taxpayer to prove by a preponderance of the evidence that the Commissioner’s determinations are arbitrary or erroneous. See *Williams v. Commissioner*, 999 F.2d 760, 763 (4<sup>th</sup> Cir. 1993), aff’g T.C. Memo. 1992-153

The IRS may not rely solely on a third-party report of

income, such as a Form 1099, if the taxpayer raises a reasonable dispute concerning the accuracy of [\*6] the report. See sec. 6201 (d). Far from doing so, petitioner has stipulated that he received the amounts of income reported on the Forms 1099. Petitioner thus bears the burden of proving that the IRS erred in determining that during 2017 he received \$25,128 of taxable retirement plan distributions and \$8,143 of taxable Social Security benefits.

In contending that this income was immune from Federal income tax, petitioner offers a familiar array of arguments lifted from the tax-protester arsenal. He contends that retirement benefits are essentially deferred wages, which are supposedly tax-exempt because received as an equal exchange for labor. Ignoring the Sixteenth Amendment to the Constitution, he asserts that, “once someone has come into ownership of money or property, by



fulfilling the terms of a [labor] contract, \*\*\*that property can only be taxed by means of an apportioned tax.” He asserts that he could never have received wages to begin with because he was never a Federal employee, citing the definition in section 3401 © that the term employee “includes” an officer or employee of the United States. And he asserts that “outside of Federal geographical jurisdiction work cannot be taxed indirectly by the Federal government.”

[\*7] These all are time-worn tax-protester arguments that no court has ever accepted.<sup>2</sup> Petitioner is taxable on the income he received to the extent provided in the Internal Revenue Code. He submitted no evidence that he had any basis in either of his private retirement plans, so he is taxable on the full amount received ( $\$20,928 + \$4200 = \$25,128$ ). Nor has the respondent erred in calculating as  $\$8,143$  the taxable portion of his Social Security benefits. See sec. 86(a). We thus sustain an adjustment of

\$33,271 to petitioner's 2017 gross income.

B. Late-filing Addition to Tax

Section 6651 (a)(1) provides for an addition to tax of 5% of the tax required to be shown on the return for each month or fraction thereof for which there is a failure to file the return, not to exceed 25% in toto. Respondent contends that petitioner is liable for an addition to tax (reduced as discussed previously) of \$254. Respondent has the burden of production on this issue. See sec. 7491(

---

<sup>2</sup>See *Taliaferro v. Freeman*, 595 F App'x 961, 962-963 (11<sup>th</sup> Cir. 2014) (calling the section 3401© argument “frivolous” and “meritless”); *Montero v. Commissioner*, 354 F. App'x 173, 175 (5<sup>th</sup> Cir. 2009) (calling it “frivolous” and a “tax-protester argument”); *Sullivan v. United States*, 788F.2d 813, 815 (1<sup>st</sup> Cir. 1986) ( calling it “meritless”);

United States v. Latham, 754 F.2d 747, 750 ( 7<sup>th</sup> Cir.1985) ( calling it a preposterous reading of the statute”); see also Crain v. Commissioner, 737 F.2d 1417, 1417-1418 (5<sup>th</sup> Cir. 1984) (calling the jurisdiction argument so “frivolous” that to answer it “might suggest that\*\*\* [it has} some colorable merit”); Wnuck v. Commissioner, 136 T.C. 498, 512 (2011) (calling these “anti-tax arguments” so frivolous that addressing them “risks dignifying them”).

[\*8]       Petitioner’s return for 2017 was due on April 17, 2018.<sup>3</sup> Respondent produced a certified transcript of petitioner’s account showing that his 2017 return was received on June 4, 2018. The physical copy of the return is stamped “received” by the Service on June 4, 2018, and shows that the petitioner signed it on May 6, 2018, three weeks after the due date.

Petitioner contends that he submitted to the IRS, by the April 17 deadline, an unsigned copy of his 2017 Form

---

<sup>3</sup>

1040. That document was not a “return” because it was not signed. See *Beard v. Commissioner*, 82 T.C. 766, 777 (1984) (holding that an essential element of a valid return is that “the taxpayer must execute the return under penalties of perjury”), *aff’d*, 793 F.2d 139 (6<sup>th</sup> Cir. 1986). In any event petitioner produced no evidence (such as a certified mail receipt) that he mailed his unsigned Form 1040 to the IRS before the filing deadline. See sec. 7502. The return itself, which shows that it was “returned for signature” on May 3, 2018, supplies no evidence of timely filing.

---

<sup>4</sup>Traditionally, the filing deadline for individual tax returns is April 15. See sec.6072(a). However, if a filing deadline falls on a weekend or a legal holiday in the District of Columbia, the deadline is extended until the

following business day. See sec. 7503. In 2018, April 15 fell on a Sunday and April 16 was Emancipation Day, which the District of Columbia recognizes as a holiday.

Accordingly, the deadline for individual taxpayers to file returns for 2017 was extended to April 17, 2018, the following Tuesday.

[\*9] Petitioner does not contend that his failure to file his return on time was “due to reasonable cause and not due to willful neglect.” Sec. 6651 (a)(1). Nor does he dispute respondents revised calculation of the addition to the tax. We accordingly sustain a late-filing addition to the tax of \$254.

C. Frivolous Position Penalty

Section 6673(a)(1) authorizes this Court to require a taxpayer to pay to the United States a penalty, not in excess of \$25,00, “[w]henver it appears to the Tax Court that—(A) proceedings before it have been instituted or maintained\*\*\* primarily for delay, [or] (B) the taxpayer’s

position in such proceedings is frivolous or groundless.”

The purpose of section 6673 is to compel taxpayers to conform their conduct to settled tax principles and to deter the waste of judicial and IRS resources. See Coleman v. Commissioner, 791 F.2d 68, 71 (7<sup>th</sup> Cir.1986); Wnuck v. Commissioner, 136 T.C. 498, 513 (2011). :Frivolous and groundless claims divert the Court’s time, energy, and resources away from more serious claims and increase the needless cost imposed on other litigants.” Kernan v. Commissioner, T.C. Memo. 2014-228, 108 T.C.M. (CCH) 503, 512, aff’d, 670 F. App’x 944 (9<sup>th</sup> Cir. 2016).

Petitioner’s arguments that his income was immune from Federal income tax are frivolous. See, e.g., Briggs v. Commissioner, T.C. Memo. 2016-86, 111 [\*10] T.C.M. (CCH) 1389, 1391-1392(imposing a \$3,000 penalty on a taxpayer who advanced the section 3401 © argument); Walter v. Commissioner, T.C. Memo. 2014-35, 107 T.C.M. (CCH) 1189, 1200-1201, 1203 (imposing a

\$2,500 penalty), aff'd, 659 F. App'x 440 (9<sup>th</sup> Cir. 2016). The IRS publishes and occasionally updates "The Truth About Frivolous Tax Arguments," a compendium of frivolous positions and the case law refuting them. Petitioner's arguments are included in that compendium. The Truth About Frivolous Tax Arguments, Internal Revenue Service (March 2018), [https://www.irs.gov/pub/taxpros/frivilous\\_truth\\_march\\_2018.pdf](https://www.irs.gov/pub/taxpros/frivilous_truth_march_2018.pdf). Although petitioner has no legal training, he evidently had no difficulty cutting and pasting material downloaded from tax-protester websites. Had he made even a modest inquiry using an internet search engine, he would have found the copious authorities refuting his stance. See Wnuck, 136 T.C. at 504 ("Anyone with the inclination to do legal research\*\*\* will confront such authorities.")

This appears to be petitioner's first appearance in this Court, and he cooperated with respondent's counsel by

30.

executing stipulations of fact and preparing the case for submission without trial under Rule 122. We will thus refrain from imposing any penalty at this time. But we warn petitioner that he will risk a severe [\*11] penalty if he advances frivolous positions in any future appearance before this Court.

We have considered all remaining arguments petitioner made and, to the extent not addressed, we find them to be irrelevant or meritless.

To reflect the forgoing, An appropriate order and decision will be entered for respondent.

Appendix A (2.)

United States Tax Court

Docket No. 7115-20

### **ORDER AND DECISION**

Pursuant to the Court's Opinion (T.C. Memo. 2021-129)



31.

issued in the above-docketed case on November 18, 2021, it is

ORDERED that petitioner's Motions to take Judicial Notice, filed May 1, 2021, at docket entries # 14 and 15, are denied. It is further

ORDERED AND DECIDED: That there is a deficiency in income tax due from petitioner for the taxable year 2017 in the amount of \$2,734.00;

That there is an addition to tax due from petitioner for the taxable year 2017, under the provisions of I.R.C. § 6651(a)(1), in the amount of \$254.00;

That there are no penalties due from petitioner for the taxable year 2017, under the provisions of I.R.C. § 6662(a)

**(Signed) Albert G. Lauber**

**Judge**

**Entered and Served 11/23/21**

32.

APPENDIX A (3)

United States Tax Court

Printable Docket Record Incorporated by reference and  
attached to this Petition

APPENDIX B.

United States Court of Appeals for the

Fourth Circuit:

Court of Appeals Docket # 22-1007

Bernard Holland

Petitioner – Appellant

v.

Commissioner of Internal Revenue

Respondent – Appellee

Appeal from the United States Tax Court

(Tax Ct. No. 7115 – 20

Submitted: May 19, 2022

Decided: May 23, 2022

Before MOTZ and HARRIS Circuit Judges and

TRAXLER, Senior Circuit Judge

Affirmed by unpublished per curiam opinion.

Bernard D. Holland Appellant Pro Se. Michael J. Haungs,

Supervisory Attorney, Marie Elizabeth Wicks, UNITED

STATES DEPARTMENT OF JUSTICE, Tax Division,

Washington, DC., for Appellee. Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Bernard D. Holland appeals from the tax court's order upholding the Commissioners determination of a deficiency and addition to tax with respect to his 2017 federal tax liability. We have reviewed the record and the tax court's decision and find no error. Accordingly, we affirm for the reason stated by the court. *Holland v. Comm'r of Internal Revenue*, No. 7115-20 (Tax Ct. No. Nov. 23, 2021) We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process. ***AFFIRMED***

35.

Filed: May 23,2022

UNITED STATES COURT OF APPEALS

FOR THE FOURTH CIRCUIT

No. 22-1007

(7115-20)

BERNARD D. HOLLAND

Petitioner- Appellant

v.

COMMISSIONER OF INTERNAL REVENUE

Respondent – Appellee

JUDGEMENT

In accordance with the decision of this court, the  
judgement of the tax court id affirmed.

This judgement shall take effect upon issuance of this  
court's mandate in accordance with Fed. R. App. P. 41

/s/ PATRICIA S. CONNER, CLERK

36.

FILED: May 23, 2022

UNITED STATES COURT OF APPEALS

FOR THE FOURTH CIRCUIT

No. 22-1007, Bernard Holland v. Commissioner of Internal

Revenue 7115-20

NOTICE OF JUDGEMENT

Judgement was entered on this date in accordance with

Fed. R. App. P. 36. Please be advised of the following time

periods:

PETITION FOR WRIT OF CERTIORARI; The time to file a petition for writ of certiorari runs from the date of entry of the judgement sought to be reviewed, and not from the date of issuance of the mandate. If a petition for rehearing is timely filed in the court of appeals, the time to file the petition for writ of certiorari for all parties runs from the date of the denial of the petition for rehearing or, if the petition for rehearing is granted, the subsequent entry of judgement. See Rule 13 of the Rules of the Supreme Court of the United States;

[www.supremecourt.gov](http://www.supremecourt.gov).

VOUCHERS FOR PAYMENT OF APPOINTED OR

ASSIGNED COUSEL: \_\_\_\_\_

BILL OF COSTS: \_\_\_\_\_

PETITION FOR REHEARING AND PETITION FOR

REHEARING EN BANC: \_\_\_\_\_

Mandate: \_\_\_\_\_

37.

FILED: September 6, 2022

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

No. 22-1007  
(7115-20)

BERNARD D. HOLLAND

Petitioner – Appellant

v.

COMMISSIONER OF INTERNAL REVENUE

Respondent – Appellee

ORDER

The court's mandate issued 07/15/2022, is recalled for the limited purpose of considering a timely petition for panel and/or en banc rehearing. The court grants the motion for extension and accepts the petition for rehearing en banc as timely filed.

For the Court – By Direction

/s/ Patricia S. Connor, Clerk

38.

FILED: August 8, 2022

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

No. 22-1007

(7115-20)

BERNARD D. HOLLAND

Petitioner – Appellant

v.

COMMISSIONER OF INTERNAL REVENUE

Respondent – Appellee

ORDER

Upon consideration of appellant's motion to reopen case, the court grants reconsideration and vacates its July 28, 2022, docket entry based on clerical error.

For the Court – By Direction

/s/ Patricia S. Conner, Clerk

General Docket entry Numbers: 18,19,20 and 21 are  
unavailable to copy

-



39.

FILED: September 20, 2022

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

No. 22 – 1007  
(7115 – 20)

BERNARD D. HOLLAND

Petitioner – Appellant

v.

COMMISSIONER OF INTERNAL REVENUE

Respondent – Appellee

ORDER

The petition for rehearing en banc was circulated to the full court. No Judge requested a poll under Fed. R. App. P.

35. The Court denies the petition for rehearing en banc.

For the Court

/s/ Patricia S. Connor, Clerk

COMMISSIONER OF INTERNAL REVENUE

Respondents – Appellee

Michael J. Haungs, Supervisory Attorney Direct:  
202-514-4343  
Email: [appellate.taxcivil@usdoj.gov](mailto:appellate.taxcivil@usdoj.gov)  
9COR NTC Government)  
U.S. DEPARTMENT OF JUSTICE tax Division  
P.O. Box 502 Washington, DC 20044

Stephannie A. Servoss, Clerk (aty) Dir: 202 – 521 – 0700  
Email: [appeals@ustaxcourt.gov](mailto:appeals@ustaxcourt.gov)  
(NTC For information ONLY) UNITED STATES TAX  
COURT  
Firm: 202 – 606 – 8574  
400 2<sup>nd</sup> Street, NW Washington, DC 20217 – 0000

Marie Elizabeth Wicks Direct: 202 – 307 – 0461  
Email: [marie.e.wicks@usdoj.gov](mailto:marie.e.wicks@usdoj.gov)  
(COR NTC Gov't) U.S. DEPARTMENT OF JUSTICE  
Tax Division P.O. Box 502  
Washington, DC 20044

APPENDIX B (1.)

Fourth Circuit Court of Appeals

Printable Docket Record Incorporated by Reference and  
attached to this Petition

41.

ENTRY OF APPEARANCE

UNITED STATES SUPREME COURT

Bernard D. Holland	[	
Petitioner	[	
	[	Docket No. _____
v.	[	
	[	Filed: Certified Mail
COMMISSIONER OF	[	
INTERNAL REVENUE	[	
Respondent	[	

ENTRY OF APPEARANCE

The undersigned, Appearing Pro Se, hereby enters an  
appearance in the above entitled case.

Dated: 16 June, 2023

---

Signature

Bernard D. Holland  
Printed Name

202 Clearwater Drive  
Address

Morganton, NC 28655  
City State Zip Code

42.

412-999-9099  
Phone Number

bernieholland@hotmail.com  
Email address

No. \_\_\_\_\_

In The Supreme Court of The United States

Bernard D. Holland \_\_\_\_\_ Petitioner

Vs.

Commissioner of Internal Revenue \_\_\_\_\_ Respondent

Statement of Petition's Word Count

The petition for certiorari in the above captioned case  
contains \_\_3332\_\_\_\_\_ words.

Certified by: Bernard D. Holland

BERNARD D. HOLLAND

Petitioner - Appellant

v.

COMMISSIONER OF INTERNAL REVENUE

Respondent - Appellee

Clear All

• Documents and Docket Summary  
Documents Only

✓ Include Page Numbers

Selected Pages: 0      Selected Size: 0 KB

Totals reflect accessible documents only and do not include unauthorized restricted documents.

[View Selected](#)

PACER Service Center			
Transaction Receipt			
01/31/2023 21:42:25			
PACER Login:	BDH33721	Client Code:	
Description:	Docket Report (filtered)	Search Criteria:	22-1007
Billable Pages:	2	Cost:	0.20

**General Docket**  
**United States Court of Appeals for the Fourth Circuit**

<b>Court of Appeals Docket #:</b> 22-1007 <b>Bernard Holland v. Commissioner of Internal Revenue</b> <b>Appeal From:</b> Tax Court, Internal Revenue Service <b>Fee Status:</b> fee paid	<b>Docketed:</b> 01/03/2022 <b>Termed:</b> 05/23/2022
---	--

**Case Type Information:**

- 1) U.S. Tax Court
- 2) Petition for Review
- 3) null

**Originating Court Information:**

**District:** IRS-1 : 7115-20  
**Date Decided:**  
11/23/2021

**Date Rec'd COA:**  
12/22/2021

**District:** IRS-1 :

**Prior Cases:**

None

**Current Cases:**

None

**BERNARD D. HOLLAND**  
Petitioner - Appellant

Bernard D. Holland  
Direct: 412-999-9099  
Email: bernieholland@hotmail.com  
[NTC Pro Se]  
202 Clearwater Drive  
Morganton, NC 28655



v.

**COMMISSIONER OF INTERNAL REVENUE**  
Respondent - Appellee

Michael J. Haungs, Supervisory Attorney  
Direct: 202-514-4343  
Email: appellate.taxcivil@usdoj.gov  
[COR NTC Government]  
U. S. DEPARTMENT OF JUSTICE  
Tax Division  
P. O. Box 502  
Washington, DC 20044

Stephanie A. Servoss, Clerk (aty)  
Direct: 202-521-0700  
Email: appeals@ustaxcourt.gov  
[NTC For Information Only]  
UNITED STATES TAX COURT  
Firm: 202-606-8574  
400 2nd Street, NW  
Washington, DC 20217-0000

Marie Elizabeth Wicks  
Direct: 202-307-0461  
Email: marie.e.wicks@usdoj.gov  
[COR NTC Government]  
U. S. DEPARTMENT OF JUSTICE  
Tax Division  
P. O. Box 502  
Washington, DC 20044

01/03/2022	<u>1</u> 1 pg, 55.72 KB	Case docketed. Originating case number: 7115-20. Case manager: RachelLee. [1001084430] [22-1007] RP [Entered: 01/03/2022 01:04 PM]
01/03/2022	<u>2</u> 7 pg, 205.25 KB	FEE NOTICE issued to Bernard D. Holland - initial notice. Fee or application to proceed as indigent due 01/19/2022. Originating case number: 7115-20. Mailed to: Bernard Holland. [1001084440] [22-1007] RP [Entered: 01/03/2022 01:08 PM]
01/03/2022	<u>3</u> 14 pg, 265.65 KB	INFORMAL BRIEFING ORDER filed. Mailed to: Bernard Holland. [1001084445] Informal Opening Brief due 01/28/2022. Informal response brief, if any: 14 days after informal opening brief served. [22-1007] RP [Entered: 01/03/2022 01:12 PM]
01/03/2022	<u>4</u> 1 pg, 88.96 KB	RECORD requested from Clerk [1001084454]. Due: 01/18/2022. [22-1007] RP [Entered: 01/03/2022 01:15 PM]
01/11/2022	<u>5</u>  22 pg, 12.16 MB	US TAX COURT RECORD in electronic format filed by US Tax Court. Method of service: ECF service on counsel. [1001090265] [22-1007] Tax Court [Entered: 01/11/2022 01:35 PM]
01/11/2022	<u>6</u>	ASSEMBLED ELECTRONIC RECORD docketed. Originating case number: 7115-20. Record in folder? Yes. Record reviewed? Yes. PSR & SOR included? N/A. [1001090445] [22-1007] RP [Entered: 01/11/2022 03:51 PM]
01/26/2022	<u>7</u> 1 pg, 148.49 KB	APPEARANCE OF COUNSEL by Marie E. Wicks (lead-counsel) for Commissioner of Internal Revenue. [1001099122] [22-1007] Marie Wicks [Entered: 01/26/2022 02:38 PM]
01/28/2022	<u>8</u> 14 pg, 231.43 KB	INFORMAL OPENING BRIEF by Bernard D. Holland. [1001100258] [22-1007] Bernard Holland [Entered: 01/28/2022 10:20 AM]
01/28/2022	<u>9</u> 3 pg, 134.03 KB	DOCKETING FORMS FOLLOW-UP NOTICE ISSUED to Bernard D. Holland re: filing of disclosure form. Disclosure statement due from Bernard D. Holland on 02/02/2022. [1001100272] [22-1007] RP [Entered: 01/28/2022 10:32 AM]
01/31/2022	<u>10</u> 7 pg, 219.52 KB	MOTION by Commissioner of Internal Revenue to extend filing time for informal response brief until March 4, 2022.. Date and method of service: 01/31/2022 ecf, US mail. [1001101485] [22-1007] Marie Wicks [Entered: 01/31/2022 02:51 PM]
02/01/2022	<u>11</u> 1 pg, 53.55 KB	ORDER filed granting Motion to extend filing time [10] Number of days granted: 21. Any Informal Response Brief due 03/04/2022. Copies to all parties. [1001101839] [22-1007] RP [Entered: 02/01/2022 09:19 AM]
02/04/2022	<u>12</u> 3 pg, 597.11 KB	DISCLOSURE STATEMENT by Bernard D. Holland. Was any question on Disclosure Form answered yes? No [1001104679] [22-1007] RP [Entered: 02/04/2022 02:50 PM]
03/04/2022	<u>13</u> 1 pg, 147.31 KB	APPEARANCE OF COUNSEL by Michael J. Haungs (co-counsel) for Commissioner of Internal Revenue. [1001121565] [22-1007] Michael Haungs [Entered: 03/04/2022 10:37 AM]
03/04/2022	<u>14</u> 22 pg, 141.06 KB	INFORMAL RESPONSE BRIEF by Commissioner of Internal Revenue. [1001121686] [22-1007] Marie Wicks [Entered: 03/04/2022 12:22 PM]
03/14/2022	<u>15</u> 13 pg, 201.76 KB	INFORMAL REPLY BRIEF by Bernard D. Holland. [1001126949] [22-1007] Bernard Holland [Entered: 03/14/2022 11:46 AM]
05/23/2022	<u>16</u> 2 pg, 107.76 KB	UNPUBLISHED PER CURIAM OPINION filed. Originating case number: 7115-20. Copies to all parties and the district court/agency. [1001166082] [22-1007] RP [Entered: 05/23/2022 09:04 AM]
05/23/2022	<u>17</u> 4 pg, 167.61 KB	JUDGMENT ORDER filed. Decision: Affirmed. Originating case number: 7115-20. Entered on Docket Date: 05/23/2022. Copies to all parties and the district court/agency. [1001166123] [22-1007] RP [Entered: 05/23/2022 09:26 AM]
07/15/2022	<u>18</u> 1 pg, 72.96 KB	Mandate issued. Referencing: [16] unpublished per curiam Opinion, [17] Judgment Order. Originating case number: 7115-20. [1001194267] [22-1007] RP [Entered: 07/15/2022 09:08 AM]
07/27/2022	<u>19</u> 1 pg, 169.56 KB	MOTION by to recall mandate.. Date and method of service: 07/27/2022 ecf. [1001201776] [22-1007] Bernard Holland [Entered: 07/27/2022 10:40 PM]
07/27/2022	<u>20</u> 1 pg, 68.55 KB	MOTION by Bernard D. Holland to extend filing time for petition for rehearing.. Date and method of service: 07/27/2022 ecf. [1001201777] [22-1007] Bernard Holland [Entered: 07/27/2022 10:47 PM]
07/28/2022	<u>21</u>  0 pg, 0 KB	(ENTRY RESTRICTED) ORDER filed denying motion to recall mandate [19]; denying motion to extend filing time [20]. Copies to all parties. [1001202452] [22-1007]—[Edited 08/11/2022 by TW see ECF 23] TW [Entered: 07/28/2022 04:12 PM]
08/05/2022	<u>22</u> 1 pg, 61.07 KB	MOTION by Bernard D. Holland to reopen case. Date and method of service: 08/05/2022 ecf. [1001207371] [22-1007] Bernard Holland [Entered: 08/05/2022 05:09 PM]
08/08/2022	<u>23</u>	ORDER filed The court grants reconsideration and vacates its July 28, 2022, docket entry based on clerical



	1 pg, 51.33 KB	error. [21] Copies to all parties. [1001207854] [22-1007] RHS [Entered: 08/08/2022 12:46 PM]
08/08/2022	<u>24</u> 1 pg, 53.74 KB	ORDER filed denying motion to to extend time to file a petition for rehearing and motion to recall the mandate [22]. The motions are denied without prejudice to refiling the motions accompanied by the petition for rehearing/rehearing en banc within 30 days of this order.Copies to all parties. [1001207861] [22-1007] RHS [Entered: 08/08/2022 12:52 PM]
08/16/2022	<u>25</u> 2 pg, 68.51 KB	PETITION for rehearing en banc by Bernard D. Holland. Date and method of service: 08/16/2022 ecf. [1001212874] --[Edited 09/06/2022 by CB to modify event.] [22-1007] Bernard Holland [Entered: 08/16/2022 11:52 AM]
09/03/2022	<u>26</u> 2 pg, 184.69 KB	MOTION by Bernard D. Holland to recall the mandate and extend time for petition for rehearing en banc. Date and method of service: 09/03/2022 ecf. [1001224041] [22-1007]--[Edited 09/06/2022 by R.J.L- docket text edited] Bernard Holland [Entered: 09/03/2022 09:16 AM]
09/06/2022	<u>27</u> 1 pg, 73.35 KB	ORDER filed recalling mandate and extending filing time for petition for rehearing. (administratively terminating Motion to exceed length limitations [26]).Copies to all parties. [1001224396] [22-1007] RP [Entered: 09/06/2022 11:00 AM]
09/20/2022	<u>28</u> 1 pg, 51.92 KB	COURT ORDER filed denying Motion for rehearing en banc [25]. Copies to all parties. [1001232706] [22-1007] RP [Entered: 09/20/2022 12:52 PM]
09/28/2022	<u>29</u> 1 pg, 73.55 KB	Mandate issued. Referencing: [17] Judgment Order , [16] unpublished per curiam Opinion. Originating case number: 7115-20.. [1001237685] [22-1007] RP [Entered: 09/28/2022 09:24 AM]



**United States Tax Court**

Washington, DC 20217

Bernard D. Holland, Petitioner v. Commissioner of  
Internal Revenue, Respondent

Docket No. 7115-20

**Printable Docket Record**

Name	Contact	Counsel
Bernard D. Holland	202 Clearwater Drive Morganton, NC 28655 No Phone	None

Respondent Counsel	Respondent Counsel Contact
Ashley M. Bender	ashley.m.bender@irscounsel.treas.gov 336-690-6315
Timothy J. Driscoll	timothy.j.driscoll@irscounsel.treas.gov 336-690-6335
Amy Dyar Seals	amy.d.seals@irscounsel.treas.gov 336-690-6310

No.	Date	Event	Filings and proceedings	Filed by	Action	Served	Parties
1	07/10/20	P	<b>PETITION FILED by Petr. Bernard D. Holland: FEE PAID</b>	See Filings and Proceedings		08/12/20	R
2	07/10/20	RQT	<b>REQUEST FOR PLACE OF TRIAL AT WINSTON-SALEM, NC by Petr. Bernard D. Holland</b>	See Filings and Proceedings		08/12/20	R
3	09/21/20	A	<b>ANSWER by Resp. (C/S 09/21/20) (EXHIBIT)</b>	See Filings and Proceedings			

Printed 12/13/21

No.	Date	Event	Filings and proceedings	Filed by	Action	Served	Parties
4	01/27/21	NTD	Notice of Trial on 05/03/2021 at Winston- Salem, North Carolina			01/27/21	B
5	01/27/21	SPTD	Standing Pretrial Order			01/27/21	B
6	04/12/21	EA	Entry of Appearance for Respondent	Resp.		04/12/21	B
7	04/12/21	PMT	Pretrial Memorandum	Resp.		04/12/21	B
8	04/16/21	EXH	Exhibit(s) (Attachment(s))	Resp.		04/16/21	B
9	<del>04/17/21</del>	ADMR	<del>Administrative Record</del> (STRICKEN)	Petr. Bernard D. Holland		04/17/21	B
10	04/19/21	PMT	Pretrial Memorandum	Petr. Bernard D. Holland		04/19/21	B
11	04/21/21	O	Order that the document with a cover page titled "Answer", filed April 19, 2021, and referenced as docket entry number 10, is retitled "Pretrial Memorandum".			04/21/21	B
12	04/21/21	O	Order that the document with a cover page titled "Administrative Record", filed April 19, 2021, and referenced as docket entry number 9, is stricken from the Court's record.			04/21/21	B
13	04/30/21	STIP	First Stipulation of Facts (Attachment(s))	Resp. & Petr. Bernard D. Holland		04/30/21	B
14	05/01/21	M109	Motion to Take Judicial Notice	Petr. Bernard D. Holland	ORD 11/23/2021	05/01/21	B

No.	Date	Event	Filings and proceedings	Filed by	Action	Served	Parties
15	05/02/21	M109	Motion to Take Judicial Notice	Petr. Bernard D. Holland	ORD 11/23/2021	05/02/21	B
16	05/03/21	NODC	Notice of Docket Change for Docket Entry No. 14			05/03/21	B
17	05/03/21	HEAR	Hearing before Judge Ashford at Winston-Salem, North Carolina. 5/3/2021 Jurisdiction Retained. 5/1/2021 Petitioner's Motion to Take Judicial Notice----CAV; 5/2/2021 Petitioner's Motion to Take Judicial Notice----CAV				
18	05/14/21	SPML	First Supplemental First Stipulation of Facts	Resp. & Petr. Bernard D. Holland		05/14/21	B
19	05/14/21	M106	Motion to Submit Case Pursuant to Rule 122 (No Objection)	Resp. & Petr. Bernard D. Holland	ORD 5/18/2021	05/14/21	B
20	05/17/21	NODC	Notice of Docket Change for Docket Entry No. 19			05/17/21	B
21	05/18/21	O	Order that the parties' Joint Motion for Leave to Submit Case Under Tax Court Rule 122, filed May 14, 2021 is granted. Parties shall file simultaneous opening briefs by August 2, 2021 and simultaneous answering briefs by September 16, 2021.			05/18/21	B

No.	Date	Event	Filings and proceedings	Filed by	Action	Served	Parties
22	05/26/21	TRAN	Transcript of Winston-Salem, NC (Remote Proceedings-Calendar Call) on 05-03-2021				
23	07/26/21	SIOB	Simultaneous Opening Brief	Petr. Bernard D. Holland		07/26/21	B
24	08/02/21	SIOB	Simultaneous Opening Brief	Resp.		08/06/21	B
25	09/07/21	NINF	Notice of Intent Not to File Answering Brief	Resp.		09/07/21	B
26	09/15/21	SIAB	Simultaneous Answering Brief	Petr. Bernard D. Holland		09/15/21	B
27	09/15/21	NODC	Notice of Docket Change for Docket Entry No. 26			09/15/21	B
28	10/21/21	OAJ	Order that case is assigned to Judge Lauber for trial or other disposition. Jurisdiction of this case is no longer retained by Judge Ashford.			10/21/21	B
29	11/18/21	MOP	Memorandum Opinion Judge Lauber T.C. Memo. 2021-129 (An appropriate order and decision will be entered for respondent.)			11/18/21	B
30	11/23/21	OAD	Order and Decision Entered, Judge Lauber Petitioner's Motions to Take Judicial Notice are granted.			11/23/21	B