

25-7311

No. _____

ORIGINAL
ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES

FILED
MAR 21 2026
OFFICE OF THE CLERK
SUPREME COURT, U.S.

LYNNE A. PRICE – PETITIONER

vs.

COMMISSIONER OF INTERNAL REVENUE – RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

PETITION FOR WRIT OF CERTIORARI

Lynne A. Price

1225 Willow Court

Jacksonville, Florida 32205

(904) 418-2075

RECEIVED
MAR 30 2026
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SUPREME COURT, U.S.

QUESTIONS PRESENTED

1. Whether 26 U.S.C. § 7430 allows a prevailing taxpayer to recover “reasonable fees paid or incurred” for an attorney’s services when the taxpayer actually paid those fees by personal check to her spouse – attorney’s professional corporation (John S. Winkler, P.A.) after the IRS conceded the case, or whether courts may categorically deny recovery under a “same-household economic-realities” test that is not in the statute’s text and which treats the payment as intra-family self-representation.
2. Whether the decision below conflicts with the plain language of § 7430, its legislative purpose to reimburse actual litigation costs and deter unjustified IRS positions, and analogous fee-shifting precedents that permit recovery when payment is made to a separate professional entity.
3. Whether the “paid or incurred” limitation in § 7430 is satisfied by a bona fide invoice and check payment to a spouse-attorney’s professional association (a distinct legal entity), or whether lower courts may disregard the plain text and legislative purpose of the statute by applying tax-substance doctrines (e.g., *Frank Lyon Co.*) to bar recovery in spousal-representation cases.

LIST OF PARTIES

A list of all parties to the proceeding in the court whose judgment is the subject of this petition is provided below. If a party is a corporation with a stock ticker symbol, that symbol is also included.

Lynne A. Price

Commissioner of Internal Revenue

RELATED CASES

None

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TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
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IN THE
SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below:

OPINIONS BELOW

For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix A to the petition and is

reported at _____; or
 has been designated for publication but is not yet reported; or,
 is unpublished.

The opinion of the United States Tax Court appears at Appendix B to the petition and is

reported at _____; or
 has been designated for publication but is not yet reported; or,
 is unpublished.

For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix _____ to the petition and is

reported at _____; or
 has been designated for publication but is not yet reported; or,
 is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

reported at _____; or
 has been designated for publication but is not yet reported; or,
 is unpublished.

JURISDICTION

For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was December 22, 2025.

No petition for rehearing was timely filed in my case.

A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____ and a copy of the order denying rehearing appears at Appendix _____.

An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. _____ A _____.

The jurisdiction of this Court is invoked under 28 U.S.C. §1254(1).

For cases from **state courts**:

The date on which the highest state court decided my case was _____.
A copy of that decision appears at Appendix _____.

A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. _____ A _____.

The jurisdiction of this Court is invoked under 28 U.S.C. §1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

26 U.S.C. § 7430(a) and (c)(1)(B)(iii) provide that a prevailing party in a Tax Court proceeding may recover “reasonable litigation costs incurred,” including “reasonable fees paid or incurred for the services of attorneys.”

STATEMENT OF THE CASE

Petitioner Lynne A. Price and her husband John S. Winkler filed a Joint 2019 federal income tax return claiming the Premium Tax Credit. The IRS issued a \$696 notice of deficiency on September 7, 2022.

Winkler, a licensed attorney and member of the Tax Court bar, formed John S. Winkler, P.A. in 1988. This Florida corporation sent a formal client engagement letter to both Price and Winkler. They filed a joint Tax Court petition signed by Winkler as counsel for both. After discovery and Petitioner's motion for summary judgment, the IRS fully conceded—no deficiency was owed. Thus, Petitioner prevailed on the merits, the IRS's position was not substantially justified.

On February 7, 2024, Winkler filed a \$7430 motion on Petitioner's behalf requesting \$6,087 in attorney fees plus the \$60 filing fee. The motion attached an invoice from John S. Winkler, P.A. for services from November 13, 2022 forward. On February 20, 2024, Petitioner mailed a personal check drawn on her own funds to the P.A. for the full invoiced amount.

The Tax Court granted the \$60 filing fee but denied attorney fees, ignoring that the P.A. was a separate entity and ruling that Petitioner did not incur a "genuine liability" because the payment went "back to the same household." The Eleventh Circuit affirmed (App. A. pp. 5-6), holding that the payment was not an "actual out-of-pocket expense" under the "objective economic realities" test (citing *Frank Lyon Co. v. United States*, 435 U.S. 561 (1978), and *Minahan v. Commissioner*, 88 T.C. 516 (1987)). The court found the invoice was prepared only for the fee motion and agreed with the Tax Court judge that the

payment from Lynne A. Price's individual account to John S. Winkler, P.A.'s corporate account was "payment back to the same household," notwithstanding no evidence that the P.A. was an alter ego or that Ms. Price lacked an economic existence separate from her husband.

REASONS FOR GRANTING THE PETITION

I. The decision below conflicts with the plain text of §7430 and frustrates Congress's purpose.

Section 7430 awards fees that are “paid or incurred.” Petitioner actually *paid* by check to a separate professional corporation after receiving a formal invoice and engagement letter. The statute contains no “same-household” exception, no requirement of “genuine liability” beyond actual payment, and no bar on spousal representation when a bona-fide attorney-client relationship exists.

The lower courts imported a substance-over-form rule from *Minahan* (payment to a firm in which the taxpayer had an equity) and pro se cases (*Frisch v. Commissioner*, 87 T.C. 838 (1986)). But Petitioner is not the attorney, did not represent herself, and paid a third-party entity (the P.A.). The Eleventh Circuit's extension creates a per se denial for any married couple where one spouse is an attorney. This directly contradicts the statutory text.

Congress enacted §7430 to “reimburse a party for actual costs incurred” and to deter unjustified IRS positions in small cases like this \$696 deficiency (which the IRS conceded after litigation). See H.R. Rep. No. 96-1418 (1980); *INS v. Jean*, 496 U.S. 154 (1990) (analogous EAJA provision). The decision below chills representation in precisely the cases Congress targeted.

II. The decision creates an unwarranted judge-made rule with broad practical impact.

Millions of married taxpayers file jointly. When one spouse is an attorney willing to

handle IRS disputes at the statutory \$220/hour cap (well below market), the lower courts' rule now bars fee recovery even with actual payment. No other circuit has squarely addressed spousal payment in a joint proceeding with a formal invoice and check. The Ninth Circuit's decision in *Morrison v. Commissioner*, 565 F.3d 658 (9th Cir. 2009), allowed fees where repayment obligation existed-closer to this case than *Minahan*.

The Tax Court and Eleventh Circuit relied on suspicious timing and lack of "specific work for Price," but the record shows Winkler performed all necessary services as counsel of record for the joint petition. Petitioner exhausted administrative remedies, did not protract the case, and met every statutory prerequisite except the invented household bar.

III. The issue is important and recurring.

Small tax disputes rarely justify hiring outside counsel at full market rates. Attorney-spouses provide cost-effective representation. The decision effectively denies prevailing married taxpayers the very protection Congress provided. Review is warranted to restore the statute's plain meaning and uniform application.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

A handwritten signature in cursive script, reading "Lynne A. Price", is written over a horizontal line.

Lynne A. Price
Petitioner

Date: March 21, 2026