

No. 25A\_\_\_

**In the Supreme Court of the United States**

---

STEPHANIE MURRIN,

*Applicant,*

v.

COMMISSIONER OF INTERNAL REVENUE,

*Respondent.*

---

**APPLICATION FOR AN EXTENSION OF TIME WITHIN WHICH TO FILE A  
PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES  
COURT OF APPEALS FOR THE THIRD CIRCUIT**

---

To the Honorable Samuel A. Alito, Jr., Circuit Justice for the United States  
Court of Appeals for the Third Circuit:

Pursuant to this Court’s Rules 13.5 and 30.2, Stephanie Murrin respectfully requests a 33-day extension of time, to and including February 17, 2026, within which to file a petition for a writ of certiorari to review the judgment of the Third Circuit in this case.<sup>1</sup> The Third Circuit granted a petition for rehearing (App., *infra*, 48a-49a) and entered an amended opinion (App., *infra*, 1a-17a) on October 17, 2025. Unless extended, the time for filing a petition for a writ of certiorari will expire on January 15, 2026. The jurisdiction of this Court would be invoked under 28 U.S.C. 1254(1).

---

<sup>1</sup> This 33-day request is functionally identical to a 30-day request, which would fall on Saturday, February 14, 2026; due to the intervening weekend and federal holiday, Tuesday, February 17, is the next available business day for either a 30-day or 33-day extension.

1. This case implicates a direct and acknowledged circuit conflict over an important question of federal tax law. Under the Internal Revenue Code, the IRS typically has three years from the date a tax return is filed to assess taxes. 26 U.S.C. 6501(a). But Congress created a limited exception to the three-year deadline for “false or fraudulent return[s] with the intent to evade tax.” 26 U.S.C. 6501(c)(1). In that narrow circumstance, the IRS’s deadline is set aside entirely (activating an “indefinite” limitations period), permitting the IRS to seek unpaid taxes even decades after the fact. App., *infra*, 4a.

The question presented here is whether the IRS can assess taxes beyond the usual three-year deadline when the taxpayer’s *preparer* intended to file a false or fraudulent return, but the *taxpayer herself* had no such intent and no knowledge of any wrongdoing. The legal and practical stakes are both significant and obvious. If read too broadly, this draconian provision can destroy repose, eliminate a taxpayer’s fresh start, and unexpectedly trap innocent parties with sudden (and crushing) debt—all while excusing tardy government action and encouraging potential IRS mischief. Yet in the proceedings below, the Third Circuit nonetheless adopted the IRS’s position. In doing so, it exposed Murrin to staggering taxes and interest for returns filed over *two decades* in the past—without any indication she had a clue the returns were flawed. In reaching that conclusion, the Third Circuit squarely rejected a contrary 2-1 decision of the Federal Circuit on the identical question. App., *infra*, 15a (“our holding today departs from the Federal Circuit[]”). That stark contrast leaves the nationwide application of the federal tax code in disarray: high-income

taxpayers can litigate in the U.S. Court of Federal Claims (where they will win under Federal Circuit authority), while any litigant stuck in U.S. Tax Court could now lose under the Third Circuit’s opposite position.<sup>2</sup> That open division is intolerable in a scheme that demands uniformity.

This question, unfortunately, arises frequently, and it is being closely watched by the tax community. Expert commentators have flagged the Third Circuit’s decision as one of the year’s “most significant federal tax decisions” (A. Farrell, *Top Federal Tax Decisions of 2005*, Law360 (Dec. 23, 2005) <<https://www.law360.com/tax-authority/articles/2421046?>>), and major stakeholders participated as amicus curiae at the circuit level, reflecting the issue’s obvious importance. This single statutory question is a pure question of law, was outcome-determinative below, and will arrive here in a clean vehicle. This case presents the ideal opportunity for this Court to resolve whether innocent taxpayers can face IRS demands years (or even many decades) after-the-fact—or whether Section 6501(c)(1)’s narrow allowance is indeed limited to those taxpayers who themselves engaged in actual wrongdoing.

2. This case arose from the government’s attempt to assess new taxes on a series of Murrin’s returns filed over two decades ago (1993-1999). App., *infra*, 3a. On the key stipulated facts, Murrin’s tax preparer “placed false or fraudulent entries on Murrin’s tax returns with an intent to evade tax” (*ibid.*), but Murrin herself neither

---

<sup>2</sup> This disparity is a result of the specific rules for filing a refund claim in the Court of Claims: the taxpayer must first pay the full disputed tax before filing suit. See 28 U.S.C. 1346(a)(1); 28 U.S.C. 1491(a). That option is often not available as a practical matter to lower-income taxpayers, especially once the IRS tacks on interest accruing for years.

knew of the fraud nor intended to evade tax (*ibid.*). About a quarter-century later, the IRS issued a notice of deficiency targeting “underpayments” on those stale returns. *Ibid.* Murrin contested the IRS’s action in tax court, admitting the \$65,318 in unpaid taxes but contesting the timeliness of the IRS’s action. *Ibid.* (invoking Section 6501(a)’s three-year limitations period). Despite all sides agreeing that Murrin herself did nothing wrong, the tax court held that Section 6501(c)(1) excused the IRS’s delay because Murrin’s *tax preparer* (unbeknownst to her) intentionally “prepared \* \* \* false or fraudulent tax returns with an intent to evade tax.” *Ibid.*; see also *id.* at 35a-36a.

3. a. The Third Circuit affirmed. App., *infra*, 18a-34a. The court initially confirmed the appeal “turns on” a single legal question: “our interpretation of § 6501.” *Id.* at 21a. In analyzing that provision, the court recognized Murrin’s position “is a fair one,” and it “underst[oo]d” the “frustration with the IRS’s decision to assess tax beyond the statute of limitations due to the wrongdoing of someone other than her.” *Id.* at 20a, 25a. But the court ultimately considered itself “bound” by Section 6501(c)(1), which it read as “agnostic about who must intend to evade tax.” *Id.* at 20a. It thus held that Section 6501(c)(1) does not require taxpayer intent to eliminate the three-year statute of limitations, and the Code’s “indefinite limitations period” can be triggered by a third party’s misconduct alone. *Id.* at 21a.

In reaching that conclusion, the Third Circuit “respectfully part[ed] ways” with the Federal Circuit’s competing 2-1 decision in *BASR P’ship v. United States*, 795 F.3d 1338 (Fed. Cir. 2015). App., *infra*, 32a-33a; see also *BASR*, 795 F.3d at 1350

(holding the IRS is bound by “the three-year limitations period unless *the taxpayer* possessed the intent to evade tax”) (emphasis added). The Third Circuit explicitly rejected the 2-1 majority’s rationale, “depart[ed]” from its holding, and sided instead with *BASR*’s dissent. App., *infra*, 32a-33a (endorsing Chief Judge Prost’s minority position). It thus authorized the IRS to seek “\$65,318 in underpayments of tax, \$13,064 in accuracy-related penalties, and an estimated \$250,000 in interest” based on decades-old returns solely because Murrin’s tax preparer committed fraud, despite Murrin indisputably knowing nothing about it. *Id.* at 33a-34a.

b. The Third Circuit subsequently denied a petition for rehearing en banc but granted a petition for panel rehearing. App., *infra*, 48a-49a. In an amended opinion, the Third Circuit confirmed that its decision did not preclude Murrin from challenging interest “in a future proceeding.” *Id.* at 16a-17a n.13. It otherwise left its holding unchanged.

4. Murrin respectfully requests a 33-day extension of time, to and including February 17, 2026, within which to file a petition for a writ of certiorari. As established above, this case presents a significant question of federal tax law. The Third Circuit created a direct split with a 2-1 decision of the Federal Circuit, and the decision has staggering effects on innocent taxpayers in all-too-common situations. There is a reason that expert commentators and key stakeholders are closely monitoring the case. Any forthcoming petition, in short, will be substantial.

Murrin’s counsel of record has multiple competing obligations, including deadlines canvassing the proximate period where this petition would otherwise be

due: an answering brief in the California Court of Appeals, First Appellate District, in *Chodniewicz, et al. v. Art.com, et al.*, No. A172889, filed December 17, 2025; a reply brief in the Third Circuit in *ROSS Intelligence v. Thomson Reuters*, No. 25-2153, filed December 22, 2025; a petition for writ of certiorari in this Court in *United States of America v. George Egwumba* (on review from the United States Court of Appeals for the Ninth Circuit, No. 22-50272), due January 2, 2026; a reply brief in the Ninth Circuit in *United States of America v. Jordy Aguilar*, No. 24-6840, due January 5, 2026; and an opening brief in the California Court of Appeals, First Appellate District, in *Fox Paine & Company, LLC, et al. v. Twin City Fire Insurance Company, et al.*, No. A173480, due January 6, 2026. These pre-existing deadlines, especially combined with the Christmas holiday and a pre-planned holiday vacation, make it difficult to prepare Murrin’s petition without the requested extension.

Finally, this extension would not prejudice either side: in light of the calendar, with or without an extension, this petition could not be conferenced in time for a merits decision this Term, and the petition (with or without an extension) would still be conferenced before the summer recess. Murrin’s counsel consulted respondent’s counsel regarding this request, and counsel confirmed respondent does not object.

Respectfully submitted.

Daniel L. Geysler  
Haynes and Boone, LLP  
2801 N. Harwood Street, Ste. 2300  
Dallas, TX 75201

December 31, 2025

/s/ Anne M. Voigts  
Anne M. Voigts  
*Counsel of Record*  
Pillsbury Winthrop Shaw Pittman LLP  
2550 Hanover St.  
Palo Alto, CA 94304  
(650) 233-4075  
anne.voigts@pillsburylaw.com

## **APPENDIX**

APPENDIX

Court of appeals amended opinion (Oct. 17, 2025)..... 1a  
Court of appeals original opinion (Aug. 18, 2025)..... 18a  
Tax court memorandum opinion (Jan. 24, 2024)..... 35a  
Court of appeals order (Oct. 17, 2025) ..... 48a

**PRECEDENTIAL**

UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT

---

No. 24-2037

---

STEPHANIE MURRIN,  
Appellant

v.

COMMISSIONER OF INTERNAL REVENUE

---

On Appeal from the United States Tax Court  
U.S. Tax Court No. 19-14614  
Tax Court Judge: Patrick J. Urda

---

Argued: April 30, 2025

Before: KRAUSE, BIBAS, and MONTGOMERY-REEVES,  
*Circuit Judges.*

(Filed: October 17, 2025)

Michael A. Guariglia  
McCarter & English  
2 Tower Center Boulevard  
24th Floor  
East Brunswick, NJ 08816

Lawrence A. Sannicandro, Jr.    **[ARGUED]**  
Pillsbury Winthrop Shaw & Pittman  
31 W 52nd Street  
New York, NY 10036

*Counsel for Appellant Stephanie Murrin*

Bryan Camp  
Texas Tech University School of Law

3311 18th Street  
Mail Stop 0004  
Lubbock, TX 79416

*Amicus Bryan Camp in Support of Appellant*

Caroline D. Ciralo  
Michael Waalkes  
Kostelanetz  
601 New Jersey Avenue NW  
Suite 260  
Washington, DC 20001

*Counsel for Amicus American College of Tax Counsel  
in Support of Appellant*

Jacob E. Christensen      **[ARGUED]**  
United States Department of Justice  
Civil Division, Appellate  
Room 7525  
950 Pennsylvania Avenue NW  
Washington, DC 20530

Anthony T. Sheehan  
United States Department of Justice  
Tax Division  
950 Pennsylvania Avenue NW  
P.O. Box 502  
Washington, DC 20044

*Counsel for Appellee Commissioner of Internal  
Revenue*

---

OPINION OF THE COURT

---

MONTGOMERY-REEVES, *Circuit Judge*.

Typically, the Internal Revenue Service (“IRS”) must assess tax within three years from the date an individual

taxpayer files her return. I.R.C. § 6501(a).<sup>1</sup> An exception to this statute of limitations exists, however. When there is “a false or fraudulent return with the intent to evade tax,” the IRS can assess tax “at any time.” *Id.* § 6501(c)(1). But whose “intent” is required for this exception to the statute of limitations to apply? That is the subject of this appeal. Appellant Stephanie Murrin argues that only the taxpayer’s intent matters. That is, the exception applies only if the taxpayer *herself* intends to evade tax. And because Murrin’s *tax preparer* prepared her taxes with an intent to evade tax while she did not, the exception to the statute of limitations does not apply. We understand Murrin’s frustration with the IRS’s decision to assess tax beyond the statute of limitations due to the wrongdoing of someone other than her. But we are bound by the statute. And because the statute is agnostic about who must intend to evade tax, we hold that taxpayer intent is not required. Thus, we will affirm the judgment of the Tax Court.

## I. BACKGROUND

The material facts in this appeal are undisputed. Murrin underpaid her taxes from 1993 to 1999 because her tax preparer, Duane Howell, placed false or fraudulent entries on Murrin’s tax returns with an intent to evade tax. But Murrin did not cause the false or fraudulent entries, and she did not intend to evade tax.

Over 20 years later, in 2019, the IRS issued a notice of deficiency to Murrin regarding underpayments on her tax returns between 1993 and 1999. *Id.* § 6212(a). Murrin filed a petition in the Tax Court for a redetermination of the deficiency. *Id.* § 6213(a). Murrin agreed with the IRS that she underpaid \$65,318 in tax, and she did not dispute the application of an accuracy-related penalty of \$13,064 for the underpayment. Instead, Murrin argued that the IRS did not act within the three-year statute of limitations. The Tax Court held that § 6501(c)(1) applies because Howell prepared Murrin’s false or fraudulent tax returns with an intent to evade tax, and

---

<sup>1</sup> The “Code” refers to the Internal Revenue Code. *See* 26 U.S.C. § 1 *et seq.*

thus the statute of limitations under § 6501(a) did not bar the IRS's notice of deficiency. Murrin appealed.

## II. JURISDICTION AND STANDARD OF REVIEW

The Tax Court had jurisdiction under I.R.C. §§ 6213(a) and 7442. We have jurisdiction under I.R.C. § 7482(a)(1). We exercise de novo review over the Tax Court's interpretation of the Code. *Sunoco Inc. v. Comm'r*, 663 F.3d 181, 185 (3d Cir. 2011).

## III. DISCUSSION

This appeal turns on our interpretation of § 6501. Section 6501(a) states that “any tax imposed by [the Code] shall be assessed within 3 years after the return was filed”—that is, three years from the filing of “the return required to be filed by the taxpayer.” Subsection (c) then includes twelve exceptions to the three-year statute of limitations, one of which is relevant here. Section 6501(c)(1) provides, in full, that “[i]n the case of a false or fraudulent return with the intent to evade tax, the tax may be assessed, or a proceeding in court for collection of such tax may be begun without assessment, at any time.”<sup>2</sup> To determine whether taxpayer intent is necessary to trigger the indefinite limitations period in § 6501(c)(1), we

---

<sup>2</sup> Section 6501(c)(1) keys the statute of limitations to “assessment.” A tax assessment is simply “what the taxpayer is required to pay the Government.” *Soni v. Comm'r*, 76 F.4th 49, 54 n.1 (2d Cir. 2023) (quoting *Chai v. Comm'r*, 851 F.3d 190, 218 (2d Cir. 2017)). In other words, assessment operates as a judgment against the taxpayer. *United States v. Farnsworth*, 456 F.3d 394, 396 n.1 (3d Cir. 2006). But before assessment, the IRS must first issue a notice of deficiency to the taxpayer that tells the taxpayer what the IRS believes is owed. I.R.C. §§ 6212(a), 6213(a). Once a taxpayer, like Murrin, receives a notice of deficiency, she can challenge the IRS's position in the Tax Court. *Id.* § 6213(a). Only when the taxpayer does not petition the Tax Court for a redetermination, or when the taxpayer does so and the Tax Court's judgment becomes final, may the IRS issue a tax assessment. *Id.* In the meantime, the IRS's mailing of a notice of deficiency tolls the statute of limitations. *Id.* § 6503(a).

examine (1) the text of § 6501(c)(1), (2) the statutory context of § 6501(c)(1), and (3) relevant precedent. All three reveal that § 6501(c)(1) is not limited to a taxpayer’s intent. We address each in turn.

**A. Section 6501(c)(1)’s Plain Text Applies to More Than Taxpayers**

“Our analysis begins with the statutory text.” *Mississippi ex rel. Hood v. AU Optronics Corp.*, 571 U.S. 161, 168 (2014) (citing *Sebelius v. Cloer*, 569 U.S. 369, 376 (2013)). “We give the words of a statute their ‘ordinary, contemporary, common meaning,’ absent an indication Congress intended them to bear some different import.” *Williams v. Taylor*, 529 U.S. 420, 431 (2000) (quoting *Walters v. Metro. Ed. Enters., Inc.*, 519 U.S. 202, 207 (1997)). “The ordinary or natural meaning may be determined by looking to dictionary definitions while keeping in mind the whole statutory text, the purpose, and context of the statute, and relevant precedent.” *United States v. Brow*, 62 F.4th 114, 120 (3d Cir. 2023).<sup>3</sup> “We also are mindful that ‘[t]here is no canon against using common sense in construing laws as saying what they obviously mean.’” *United States v. Lucidonio*, 137 F.4th 177, 183 (3d Cir. 2025) (alteration in original) (quoting *Koons Buick Pontiac GMC, Inc. v. Nigh*, 543 U.S. 50, 63 (2004)).

Again, the question before us is whether the “intent to evade tax” exception in § 6501(c)(1) requires taxpayer intent. We conclude that it does not. Absent from § 6501(c)(1) is any express or implied textual indication that the “intent to evade tax” is cabined to the taxpayer. The structure of the statute focuses on the presence of “a false or fraudulent return with the intent to evade tax.” I.R.C. § 6501(c)(1). That is, an “intent to

---

<sup>3</sup> “[O]ur job is to interpret the words consistent with their ‘ordinary meaning . . . at the time Congress enacted the statute.’” *Wis. Cent. Ltd. v. United States*, 585 U.S. 274, 277 (2018) (alteration in original) (quoting *Perrin v. United States*, 444 U.S. 37, 42 (1979)). Because § 6501(c)(1) dates to 1918, we discuss definitions contemporaneous to that period. See *infra* III.B. (discussing § 6501(c)(1)’s origin in the Revenue Act of 1918).

evade tax” must attach to the “false or fraudulent return.”<sup>4</sup> But neither requirement facially includes any indication that the taxpayer must be the actor who intends to evade tax.

First, the plain and ordinary meaning of the phrase “intent to evade tax” reveals no taxpayer-only limitation. Neither “intent” nor “to evade” cabin the phrase “intent to evade tax” to a taxpayer because nothing about either term is restricted to certain individuals.<sup>5</sup> The only constituent part of “intent to evade tax” that does bear a connection to taxpayers is the term “tax.” That is because “tax[es]” are “portions of the property of the citizen, demanded and received by the government, to be disposed of to enable it to discharge its functions.” *Tax*, Black’s Law Dictionary (2d ed. 1910); *see Tax*, Webster’s Home, School, and Office Dictionary (1916) (“[A] rate or duty on income or property[.]”). As a result, taxes

---

<sup>4</sup> Section 6501(c)(1)’s two requirements are joined by “with,” establishing that “the intent to evade tax” must join the “false or fraudulent return.” *See, e.g., With*, Concise Oxford Dictionary of Current English (7th ed. 1919) (explaining that “with” is a preposition meaning, among other things, “having, carrying, possessed of, characterized by”); *see also With*, Webster’s Home, School, and Office Dictionary (1916) (“[D]enoting nearness or connection.”).

<sup>5</sup> “Intent” refers to a “[p]urpose; formulated design; a resolve to do or forbear a particular act; aim; determination.” *Intent*, Black’s Law Dictionary (2d ed. 1910). Said otherwise, “intent” is “the exercise of intelligent will, the mind being fully aware of the nature and consequences of the act which is about to be done, and with such knowledge, and with full liberty of action, willing and electing to do it.” *Id. Accord Intent*, Concise Oxford Dictionary of Current English (7th ed. 1919) (“Intention, purpose, esp. with [intent] to defraud [et]c.” (cleaned up)); *Intent*, Webster’s Home, School, and Office Dictionary (1916) (explaining that, when used as a noun, “intent” means “purpose; aim”). Evade means to “escape” or “avoid.” *Evade*, Concise Oxford Dictionary of Current English (7th ed. 1919); *Evade*, Webster’s Home, School, and Office Dictionary (1916); *cf. Evasion*, Black’s Law Dictionary (2d ed. 1910) (“A subtle endeavoring to set aside truth or to escape the punishment of the law.”).

refer to duties necessarily owed by an individual or entity. *See Tax*, Concise Oxford Dictionary of Current English (7th ed. 1919) (“Contribution levied on persons, property, or business, for support of government[.]”). But reading the whole phrase together, an “intent to evade tax” means that *someone* planned to avoid duties owed by an individual or entity to the Government. So, while an “intent to evade” does concern the taxes a taxpayer owes, the plain meaning of the words does not imply a specific actor.

Second, Congress’s decision to use passive voice in § 6501(c)(1) further evinces that the statute does not depend on a taxpayer’s intent. Congress drafted § 6501(c)(1) by focusing “on an event that occurs without respect to a specific actor, and therefore without respect to any [specific] actor’s intent or culpability.” *Dean v. United States*, 556 U.S. 568, 572 (2009). And by wording it this way, without listing who must intend to evade tax, “Congress was agnostic about who” did so. *Bartenwerfer v. Buckley*, 598 U.S. 69, 76 (2023) (cleaned up) (quoting *Watson v. United States*, 552 U.S. 74, 81 (2007)).<sup>6</sup>

Murrin responds with a few textual arguments. We begin with the strongest—that because the tax evaded is that owed by the taxpayer, the plainest reading of “intent to evade tax” must refer to a taxpayer’s conduct. Any other reading, Murrin stresses, would unnaturally interpret the statute contrary to any commonsense interpretation of it. *Cf. United States v. Fontaine*, 697 F.3d 221, 228 (3d Cir. 2012) (explaining that “we should ‘presume[] that the legislature intended exceptions to its language, which would avoid [absurd]’ results” (alterations in original) (quoting *Gov’t of the V.I. v. Berry*, 604 F.2d 221, 225 (3d Cir. 1979))). This is because the “plainest reading of section 6501(c)(1) is that the statute refers to the intent of the person with the legal duty to file the tax return and pay the tax: the taxpayer.” Opening Br. 24.

---

<sup>6</sup> “It is true, of course, that context can confine a passive-voice sentence to a likely set of actors.” *Bartenwerfer*, 598 U.S. at 76. But as we explain below, context here confirms that Congress’s use of passive voice in § 6501(c)(1) was purposeful. *See infra*.

Murrin’s argument is a fair one. And it certainly is true that § 6501(c)(1) applies when a taxpayer intends to evade tax. That much is beyond debate. But the plainest and most straightforward reading of § 6501(c)(1) is that it simply requires an “intent to evade tax” attached to a “false or fraudulent return,” and whether a taxpayer, accountant, lawyer, or tax preparer evinced such intent is beside the point. And while Murrin contends such a view is nonsensical, the Code establishes that Congress knows how to limit statutes to taxpayers when it intends to do so. *See infra* III.B. (detailing why §§ 6161(b)(3), 6663(c), 6664(c)(1), and 7454(a) establish this conclusion). That only strengthens our bottom-line view that were § 6501(c)(1) limited to a taxpayer’s intent, we would expect to see evidence of that in the statute.

Next, Murrin contends that because § 6501(a) explains that the “return” at issue is the taxpayer’s, “the fraudulent intent referenced in section 6501(c)(1) is by implication limited to fraud by the taxpayer.” Opening Br. 23–24. Not so. As the Tax Court explained, “[t]he specification of whose tax or return is at issue does not suggest, much less dictate, who had to intend to evade tax.” App. 10. Moreover, Congress expressly used the term “taxpayer” in § 6501(a) to define what return is at issue but declined to use the same qualifier in § 6501(c)(1). And “[w]hen Congress includes particular language in one section of a statute but omits it from a neighbor, we normally understand that difference in language to convey a difference in meaning.” *Bittner v. United States*, 598 U.S. 85, 94 (2023).

Murrin also argues that the Tax Court’s interpretation focuses only on the “false or fraudulent return” and thus renders “intent to evade tax” superfluous. We recognize that we must “give effect, if possible, to every clause and word of a statute,” but our interpretation of § 6501(c)(1) renders nothing superfluous in this statute. *Montclair Twp. v. Ramsdell*, 107 U.S. 147, 152 (1883); *see also Arlington Cent. Sch. Dist. Bd. of Educ. v. Murphy*, 548 U.S. 291, 299 n.1 (2006) (“[I]t is generally presumed that statutory language is not superfluous.”). As the Tax Court correctly explained, “[t]he obvious construction of the statutory text is that the intent to evade tax must be present in a false or fraudulent return, irrespective of who possesses that intent.” App. 10 (quoting

*BASR P'ship v. United States*, 795 F.3d 1338, 1358 (Fed. Cir. 2015) (Prost, C.J., dissenting)). But that construction of § 6501(c)(1) still requires an act (a “false or fraudulent return”) and a mental state (“with the intent to evade tax”). As a result, we fail to see why our interpretation of § 6501(c)(1) somehow excises “the intent to evade tax” from the statute.<sup>7</sup>

**B. Section 6501(c)(1)’s Statutory Context Shows That Congress Knows How to Limit Statutes to Taxpayers but Did Not Do So Here**

We turn next to the statutory context of § 6501(c)(1). “It is a fundamental canon of statutory construction that the words of a statute must be read in their context and with a view to their place in the overall statutory scheme.” *West Virginia v. EPA*, 597 U.S. 697, 721 (2022) (quoting *Davis v. Mich. Dep’t of Treasury*, 489 U.S. 803, 809 (1989)); *see also Davis*, 489 U.S. at 809 (“[S]tatutory language cannot be construed in a vacuum.”). And the statutory context shows that Congress knows how to limit statutes to taxpayer conduct when it wants to do so. For example, § 6663(a) authorizes the IRS to impose a fraud penalty when “any part of any underpayment of tax required to be shown on a return is due to fraud.” I.R.C. § 6663(a). But the fraud penalty does not apply when “the taxpayer acted in good faith” and had “reasonable cause.” *Id.* § 6664(c)(1). Nor does it apply for a joint return filed by a

---

<sup>7</sup> We pause to mention Murrin’s remaining argument that is adjacent to § 6501(c)(1)’s text—that our interpretation is unworkable. By not limiting § 6501(c)(1) to a taxpayer’s intent, Murrin argues that we would offend basic due process and fairness principles by not defining whose intent might matter. We need not determine the outer bounds of how an “intent to evade tax” applies in every context, however, because Murrin stipulated that her tax preparer intended to evade her taxes. But to the extent that Murrin suggests that courts are simply unable to address whether other third parties’ intent to evade tax can trigger § 6501(c)(1), the Tax Court has proven capable of doing so. *See, e.g., Browning v. Comm’r*, 102 T.C.M. (CCH) 460, at \*13–16 (2011) (conducting a detailed factual finding separately as to a taxpayer and his accountant for purposes of whether § 6501(c)(1) applied to the taxpayer).

married couple “unless some part of the underpayment is due to the fraud of such spouse.” *Id.* § 6663(c). And “[i]n any proceeding involving the issue whether the petitioner [that is, the taxpayer] has been guilty of fraud with intent to evade tax,” Congress required the IRS to carry the burden of proof on that issue. *Id.* § 7454(a).

A few important lessons flow from the Code’s fraud provisions in §§ 6663, 6664, and 7454. The first is that the fraud penalty in § 6663(a) simply says it applies when an underpayment is “due to fraud,” but Congress’s express reference to a taxpayer’s conduct three times in §§ 6663(c), 6664(c)(1), and 7454(a) make clear that the “fraud” in § 6663(a) refers to that of a taxpayer and not a third party’s fraud. Missing from the “intent to evade tax” in § 6501(c)(1) is any such contextual limitation, confirming that “intend to evade tax” includes no implied limitation. The second is that §§ 6663(c), 6664(c)(1), and 7454(a) demonstrate Congress’s knowledge about how to limit statutes to taxpayers.<sup>8</sup> As a result, we find it difficult to believe that despite Congress limiting provisions elsewhere by reference to a taxpayer’s conduct or allegations directed against the taxpayer, Congress included a limitation within “a false or fraudulent return with the intent to evade tax” despite not saying so. *Id.* § 6501(c)(1).

Murrin disagrees with our view of the Code for two reasons, but neither persuades. First, Murrin contends that the fraud penalty under § 6663(a) cuts against our interpretation. Because “due to fraud” in § 6663(a) and “intent to evade tax” in § 6501(c)(1) both are written in the passive voice, Murrin suggests that § 6663(a)’s limitation to a taxpayer’s conduct must carry over to § 6501(c)(1). As support, Murrin explains that both provisions date to the Revenue Act of 1918, and in that Act the phrase “intent to evade tax” described both the fraud penalty and statute-of-limitations exception. *See* Revenue Act of 1918, Pub. L. No. 65-254, §§ 250(b), 40 Stat. 1057, 1083 (applying fraud penalty when an “understatement is false or fraudulent with intent to evade the tax”); *id.* § 250(d),

---

<sup>8</sup> Congress likewise knows how to limit statutes to third parties like tax preparers. *See, e.g.*, I.R.C. § 6694(a) (penalizing tax preparers for, among other things, taking unreasonable tax positions).

40 Stat. at 1083 (applying exception to statute of limitations “in the case of false or fraudulent returns with intent to evade the tax”).

Murrin’s argument implicates the statutory canon of construction of *in pari materia*—the axiom that “a legislative body generally uses a particular word with a consistent meaning in a given context.” *Erlenbaugh v. United States*, 409 U.S. 239, 243 (1972). But identical words “may be variously construed, not only when they occur in different statutes, but when used more than once in the same statute or even in the same section.” *Env’t Def. v. Duke Energy Corp.*, 549 U.S. 561, 574 (2007) (quoting *Atl. Cleaners & Dyers, Inc. v. United States*, 286 U.S. 427, 433 (1932)). “Thus, the ‘natural presumption that identical words used in different parts of the same act are intended to have the same meaning’” is not inexorable, and it “readily yields whenever there is such variation in the connection in which the words are used as reasonably to warrant the conclusion that they were employed in different parts of the act with different intent.” *Id.* (quoting *Atl. Cleaners & Dyers, Inc.*, 286 U.S. at 433).

Looking past the fact that the modern-day fraud penalty differs in text from the historical analogue, Murrin points to the Revenue Act of 1918, which includes the same contextual limitations present in the Code today. Section 250(b), housing the fraud penalty now codified as § 6663(a), included various limitations that referenced taxpayers, their actions, and intent, but § 250(d), housing the statute-of-limitations exception now codified as § 6501(c)(1), did not. *See* Revenue Act of 1918, Pub. L. No. 65-254, § 250(b), 40 Stat. 1057, 1083 (exempting application of fraud penalty “if the return is made in good faith and the understatement of the amount in the return is not due to any fault of the taxpayer” or imposing a smaller penalty for understatements “due to negligence on the part of the taxpayer, but without intent to defraud”). Thus, Murrin’s emphasis on history only proves the same point reached by reference to the Code. Congress has never limited the scope of the statute-of-limitations exception despite doing so in the fraud penalty.<sup>9</sup>

---

<sup>9</sup> Murrin makes the same argument related to § 7454(a), which shifts the burden of proof to the IRS when it alleges “the petitioner [that is, the taxpayer] has been guilty of fraud with

Second, Murrin points to another provision, § 6161(b)(3), as support for why our interpretation is incongruous with the Code. That provision disallows extensions of time for payments of tax when a “deficiency is due to negligence, to intentional disregard of rules and regulations, or to fraud with intent to evade tax.” I.R.C. § 6161(b)(3). Section 6161(b)(3) is drafted like § 6501(c)(1), meaning nothing in § 6161(b)(3) suggests any limitation to its application when a third party intends to evade tax. Murrin argues that it is absurd to think that Congress would allow a third party to impact a taxpayer’s ability to seek an extension of time, further establishing the unreasonableness of our interpretation of § 6501(c)(1).

We disagree with Murrin. Section 6161(b)(3) establishes yet another piece of evidence supporting our interpretation of § 6501(c)(1) and the Code. Sections 6161(b)(3) and 6501(c)(1) deal with the IRS’s receipt of accurate payments of tax, and their provisions are not limited to a taxpayer’s intent. Sections 6663(c), 6664(c)(1), and 7454(a) deal with the imposition of fraud penalties on top of what taxes might be owed, and those provisions are limited to a taxpayer’s intent. Read together, Congress treats the payments of tax and the imposition of penalties differently. And it makes sense that Congress would “impose penalties on the taxpayer only when the taxpayer intended to evade the tax, while at the same time allowing the IRS to collect taxes based on an understated fraudulent return at any time.” *BASR*, 795 F.3d at 1360 (Prost, C.J., dissenting); *see also Asphalt Indus., Inc. v. Comm’r*, 384 F.2d 229, 234 (3d Cir. 1967) (explaining that the fraud penalty under § 6663(a) not only gathers revenue but also operates as a “civil sanction” that “bears a close resemblance to criminal liability”).

---

intent to evade tax.” Murrin suggests any case involving an intent to evade tax relates to a taxpayer. But § 7454(a) is yet another example of how Congress meant what it said and said what it meant; were § 6501(c)(1) limited to a taxpayer’s intent to evade tax, it could have drafted it precisely like § 7454(a) by specifying to whom the statute applies.

### C. Precedent Likewise Supports Our View

Finally, we examine the relevant precedent. The Supreme Court’s recent analysis of Congress’s use of passive voice also confirms our reading of § 6501(c)(1). In *Bartenwerfer*, the Supreme Court analyzed a provision of the Bankruptcy Code, 11 U.S.C. § 523(a)(2)(A), specifying that debt is not dischargeable when money is “obtained by . . . fraud.” 598 U.S. at 74. Because *Bartenwerfer* did not know about the fraud committed by her partner, she argued that the judgment was dischargeable in bankruptcy. *Id.* at 75. *Bartenwerfer* reasoned that “the statute is most naturally read to bar the discharge of debts for money obtained by *the debtor’s* fraud,” as the passive voice of the statute “hides the relevant actor in plain sight.” *Id.* The Supreme Court unanimously disagreed because the statute’s “[p]assive voice pull[ed] the actor off the stage,” meaning that all the Bankruptcy Code required was that “debt must result from someone’s fraud.” *Id.* at 75–76.

Section 6501(c)(1)’s “intent to evade tax” language is like the “obtained by fraud” language at issue in *Bartenwerfer*. Neither identifies who must intend to evade tax or who must obtain property by fraud. But like the language in *Bartenwerfer*, § 6501(c)(1) focuses on an event without regard to an actor—that is, Congress focused on a “false or fraudulent return with the intent to evade tax” without saying who must act. By pulling the taxpayer off the stage, Congress made its reasoning clear. The statute of limitations does not apply when someone intends to evade tax in the filing of a false or fraudulent return, taxpayer or not.<sup>10</sup>

---

<sup>10</sup> The Supreme Court also discussed common law fraud because while *Bartenwerfer* “paint[ed] a picture of liability imposed willy-nilly on hapless bystanders,” common law fraud principles establish that “innocent people are sometimes held liable for fraud they did not personally commit.” *Bartenwerfer*, 598 U.S. at 82–83. Murrin argues this fact makes *Bartenwerfer* inapposite because “tax-return preparers are not agents” and, thus, common law fraud’s application to this case would differ. *Loving v. IRS*, 742 F.3d 1013, 1017 (D.C. Cir. 2014). But even were that true, *Bartenwerfer*’s more general view that a passive-voice phrase, “on its face,” “pulls

*Bartenwerfer*'s analysis about the use of passive voice in statutes also aligns with the Supreme Court's last opinion interpreting § 6501(c)(1). See *Badaracco v. Comm'r*, 464 U.S. 386 (1984). *Badaracco* concerned a dispute about whether the statute of limitations is suspended under § 6501(c)(1) if an amended non-fraudulent tax return is filed to correct a previously filed fraudulent one. *Id.* at 388. Because § 6501(c)(1) allows a tax assessment "at any time," the Supreme Court held that nothing in the statute's "unqualified language" could "be construed to suspend its operation in the light of a fraudulent filer's subsequent repentant conduct." *Id.* at 393. And the Supreme Court explained that a statute of limitations like § 6501(c)(1) "must receive a strict construction in favor of the Government." *Id.* at 391 (quoting *E.I. Dupont de Nemours & Co. v. Davis*, 264 U.S. 456, 462 (1924)).<sup>11</sup> The taxpayers' position in *Badaracco* was similar to Murrin's, who advocates for a position unsupported by the statute's generally applicable language—language that we must read in the IRS's favor. Thus, we see nothing in the text of § 6501(c)(1) or in case law from the Supreme Court supporting Murrin's preferred interpretation; instead, we see case law supporting the opposite conclusion.

Moving past *Badaracco* and *Bartenwerfer*, Murrin responds that we are bound to adopt her interpretation because of this Court's holding in *Asphalt Industries*, 384 F.2d at 229. But Murrin misreads *Asphalt*. The president of Asphalt embezzled money and thus caused the corporation to file false or fraudulent tax returns. *Id.* at 231. We held that the

---

the actor off the stage" would remain. 598 U.S. at 75. So too would our view of § 6501(c)(1).

<sup>11</sup> Murrin suggests that this Court does not construe statutes of limitations in the IRS's favor when the taxpayer does not act fraudulently. Opening Br. 46 (citing *Lauckner v. United States*, 68 F.3d 69 (3d Cir. 1995)). We said no such thing in *Lauckner*, and the next year interpreted § 6501 with reference to the Supreme Court's direction in *Badaracco* to strictly construe it in a light favorable to the IRS. *Bachner v. Comm'r*, 81 F.3d 1274, 1279 (3d Cir. 1996). And regardless, strict construction or not, Murrin's argument runs counter to § 6501(c)(1)'s text and context.

president's embezzlement was not imputed to the corporation for purposes of § 6501(c)(1) in part because the tax fraud was simply a "subordinate element in [the president's] need to conceal his embezzlement." *Id.* at 235. We did not consider whether a party other than the taxpayer could independently satisfy § 6501(c)(1). And no one argued that the president's embezzlement constituted an intent to evade tax owed by Asphalt. Instead, we assumed "for present purposes" that "the meaning of fraud" is the same under both § 6501(c)(1) and § 6663(a) and held that the record was insufficient for § 6501(c)(1) to apply. *Id.* at 232. Thus, *Asphalt* does not answer the interpretive question before the Court today.

Murrin argues that affirming the Tax Court would "reject[] 100 years of tax jurisprudence," but that is not so. Opening Br. 2. As Murrin explains, it appears that the IRS first opined that § 6501(c)(1) applies in situations other than where a taxpayer intended to evade tax in 2001. IRS Field Service Advisory 200126019, 2001 WL 729653 (issued June 29, 2001). The Tax Court then held that § 6501(c)(1) applied in situations beyond when a taxpayer intends to evade tax. *See Allen v. Comm'r*, 128 T.C. 37 (2007) (applying § 6501(c)(1) because of a tax preparer's intent to evade tax). Following *Allen*, the Tax Court has applied § 6501(c)(1) in the context of a non-taxpayer's intent on several occasions, including on returns prepared by the same tax preparer Murrin used. *See Finnegan v. Comm'r*, T.C.M. (RIA) 2016-118, at \*7–9 (2016) (finding Howell's intent to evade tax rendered § 6501(c)(1) applicable); *see also Ames-Mechelke v. Comm'r*, 106 T.C.M. (CCH) 77, at \*7 (2013) (finding § 6501(c)(1) applied because of a tax preparer). Our holding today therefore does not reject a century's worth of tax jurisprudence; instead, we continue the well-trod ground laid by the Tax Court.

We do acknowledge, however, that our holding today departs from the Federal Circuit's opinion that the IRS is limited "to the three-year limitations period unless the taxpayer possessed the intent to evade tax." *BASR*, 795 F.3d at 1350 (majority opinion).<sup>12</sup> The Federal Circuit, in a decision

---

<sup>12</sup> Murrin contends that the Fifth Circuit in *Payne v. Comm'r*, 224 F.3d 415 (5th Cir. 2000), came to the same view as the Federal Circuit. The Fifth Circuit, in an appeal about whether

predating *Bartenwerfer*, reached this conclusion because it found the statute’s text revealed little and instead relied heavily on context, congressional intent, and legislative history. *See, e.g., id.* at 1343–45. Because we find that § 6501(c)(1)’s text and statutory context include no requirement that an “intent to evade tax” must come from a taxpayer, we respectfully part ways. *Accord id.* at 1358 (Prost, C.J., dissenting) (“[T]he obvious construction of the statutory text is that the intent to evade tax must be present in a false or fraudulent return, irrespective of who possesses that intent.”).

\* \* \* \* \*

Murrin faces financial pain. According to the notice of deficiency, Murrin owes \$65,318 in underpayments of tax and \$13,064 in accuracy-related penalties. And applying the normal rate of interest to these deficiencies, she may be charged with owing an estimated \$250,000 in interest.<sup>13</sup> All

---

the Tax Court properly found that a taxpayer intended to evade tax under § 6501(c)(1), described how the IRS had to show evidence “from which fraudulent intent on the part of the taxpayer can be properly inferred.” *Id.* at 421 (emphasis omitted). The Fifth Circuit described the case in those terms because the actor at issue was the taxpayer. But nowhere did that court discern the meaning and scope of § 6501(c)(1) for a third party’s actions.

The only other Circuit that confronted this issue aligns with our view. *City Wide Transit, Inc. v. Comm’r*, 709 F.3d 102 (2d Cir. 2013). The Second Circuit, citing the Tax Court’s post-*Allen* precedent, stated: “we conclude that the limitations period for assessing [the taxpayer’s] taxes is extended if the taxes were understated due to fraud of the preparer.” *Id.* at 107. But the Second Circuit then explained how the issue before it was a “narrow” one because the taxpayer conceded that if the tax preparer filed taxes with an intent to evade, § 6501(c)(1) applied. As a result, while *City Wide Transit* appears to bolster our view, we are uncertain whether the Second Circuit’s statement concerning § 6501(c)(1) is cabined to the taxpayers’ concessions on appeal and, thus, do not rely on it.

<sup>13</sup> We emphasize that Murrin’s accuracy-related penalties and interest on the deficiencies are not before us. Murrin stipulated

date to tax returns from decades ago. Murrin finds this patently unfair because her tax preparer caused the underpayments of tax. We understand her perspective. But we are bound to “consider . . . whether the policy [Murrin] favor[s] is that which Congress effectuated by its enactment of § 6501.” *Badaracco*, 464 U.S. at 398. And while Congress has limited imposing fraud penalties against a taxpayer without a taxpayer’s intent, § 6501(c)(1)’s text, context, and precedent establish that Congress was agnostic about whether the taxpayer intended to evade tax for purposes of the IRS’s full and accurate assessment of taxes.

#### IV. CONCLUSION

For the reasons discussed above, we will affirm the judgment of the Tax Court.

---

to the IRS’s proper determination of the accuracy-related penalties. Because the Tax Court lacked jurisdiction to adjudicate issues relating to interest imposed on underpayments by § 6601(a), so do we. *See Comm’r v. McCoy*, 484 U.S. 3, 6–7 (1987); *Sunoco Inc. v. Comm’r*, 663 F.3d 181, 189 (3d Cir. 2011). And in the normal course, even where the statute-of-limitations exception in § 6501(c)(1) applies, taxpayers are free to challenge accuracy-related penalties and interest. *See, e.g.*, I.R.C. § 6664(c)(1) (rendering the accuracy-related penalty and fraud penalty inapplicable when the taxpayer had a “reasonable cause” for the tax position and “acted in good faith”). Thus, nothing in this opinion should be read to foreclose any challenge to the assessment of interest in a future proceeding.

**PRECEDENTIAL**

UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT

---

No. 24-2037

---

STEPHANIE MURRIN,  
Appellant

v.

COMMISSIONER OF INTERNAL REVENUE

---

On Appeal from the United States Tax Court  
U.S. Tax Court No. 19-14614  
Tax Court Judge: Patrick J. Urda

---

Argued: April 30, 2025

Before: KRAUSE, BIBAS, and MONTGOMERY-REEVES,  
*Circuit Judges.*

(Filed: August 18, 2025)

Michael A. Guariglia  
McCarter & English  
2 Tower Center Boulevard  
24th Floor  
East Brunswick, NJ 08816

Lawrence A. Sannicandro, Jr.     **[ARGUED]**  
Pillsbury Winthrop Shaw & Pittman  
31 W 52nd Street  
New York, NY 10036

*Counsel for Appellant Stephanie Murrin*

Bryan Camp  
Texas Tech University School of Law

3311 18th Street  
Mail Stop 0004  
Lubbock, TX 79416

*Amicus Bryan Camp in Support of Appellant*

Caroline D. Ciraolo  
Michael Waalkes  
Kostelanetz  
601 New Jersey Avenue NW  
Suite 260  
Washington, DC 20001

*Counsel for Amicus American College of Tax Counsel  
in Support of Appellant*

Jacob E. Christensen      **[ARGUED]**  
United States Department of Justice  
Civil Division, Appellate  
Room 7525  
950 Pennsylvania Avenue NW  
Washington, DC 20530

Anthony T. Sheehan  
United States Department of Justice  
Tax Division  
950 Pennsylvania Avenue NW  
P.O. Box 502  
Washington, DC 20044

*Counsel for Appellee Commissioner of Internal  
Revenue*

---

OPINION OF THE COURT

---

MONTGOMERY-REEVES, *Circuit Judge*.

Typically, the Internal Revenue Service (“IRS”) must assess tax within three years from the date an individual

taxpayer files her return. I.R.C. § 6501(a).<sup>1</sup> An exception to this statute of limitations exists, however. When there is “a false or fraudulent return with the intent to evade tax,” the IRS can assess tax “at any time.” *Id.* § 6501(c)(1). But whose “intent” is required for this exception to the statute of limitations to apply? That is the subject of this appeal. Appellant Stephanie Murrin argues that only the taxpayer’s intent matters. That is, the exception applies only if the taxpayer *herself* intends to evade tax. And because Murrin’s *tax preparer* prepared her taxes with an intent to evade tax while she did not, the exception to the statute of limitations does not apply. We understand Murrin’s frustration with the IRS’s decision to assess tax beyond the statute of limitations due to the wrongdoing of someone other than her. But we are bound by the statute. And because the statute is agnostic about who must intend to evade tax, we hold that taxpayer intent is not required. Thus, we will affirm the judgment of the Tax Court.

## I. BACKGROUND

The material facts in this appeal are undisputed. Murrin underpaid her taxes from 1993 to 1999 because her tax preparer, Duane Howell, placed false or fraudulent entries on Murrin’s tax returns with an intent to evade tax. But Murrin did not cause the false or fraudulent entries, and she did not intend to evade tax.

Over 20 years later, in 2019, the IRS issued a notice of deficiency to Murrin regarding underpayments on her tax returns between 1993 and 1999. *Id.* § 6212(a). Murrin filed a petition in the Tax Court for a redetermination of the deficiency. *Id.* § 6213(a). Murrin agreed with the IRS that she underpaid \$65,318 in tax, and she did not dispute the application of an accuracy-related penalty of \$13,064 for the underpayment or the imposition of interest. Instead, Murrin argued that the IRS did not act within the three-year statute of limitations. The Tax Court held that § 6501(c)(1) applies because Howell prepared Murrin’s false or fraudulent tax returns with an intent to evade tax, and thus the statute of

---

<sup>1</sup> The “Code” refers to the Internal Revenue Code. *See* 26 U.S.C. § 1 *et seq.*

limitations under § 6501(a) did not bar the IRS's notice of deficiency. Murrin appealed.

## II. JURISDICTION AND STANDARD OF REVIEW

The Tax Court had jurisdiction under I.R.C. §§ 6213(a) and 7442. We have jurisdiction under I.R.C. § 7482(a)(1). We exercise de novo review over the Tax Court's interpretation of the Code. *Sunoco Inc. v. Comm'r*, 663 F.3d 181, 185 (3d Cir. 2011).

## III. DISCUSSION

This appeal turns on our interpretation of § 6501. Section 6501(a) states that “any tax imposed by [the Code] shall be assessed within 3 years after the return was filed”—that is, three years from the filing of “the return required to be filed by the taxpayer.” Subsection (c) then includes twelve exceptions to the three-year statute of limitations, one of which is relevant here. Section 6501(c)(1) provides, in full, that “[i]n the case of a false or fraudulent return with the intent to evade tax, the tax may be assessed, or a proceeding in court for collection of such tax may be begun without assessment, at any time.”<sup>2</sup> To determine whether taxpayer intent is necessary to trigger the indefinite limitations period in § 6501(c)(1), we

---

<sup>2</sup> Section 6501(c)(1) keys the statute of limitations to “assessment.” A tax assessment is simply “what the taxpayer is required to pay the Government.” *Soni v. Comm'r*, 76 F.4th 49, 54 n.1 (2d Cir. 2023) (quoting *Chai v. Comm'r*, 851 F.3d 190, 218 (2d Cir. 2017)). In other words, assessment operates as a judgment against the taxpayer. *United States v. Farnsworth*, 456 F.3d 394, 396 n.1 (3d Cir. 2006). But before assessment, the IRS must first issue a notice of deficiency to the taxpayer that tells the taxpayer what the IRS believes is owed. I.R.C. §§ 6212(a), 6213(a). Once a taxpayer, like Murrin, receives a notice of deficiency, she can challenge the IRS's position in the Tax Court. *Id.* § 6213(a). Only when the taxpayer does not petition the Tax Court for a redetermination, or when the taxpayer does so and the Tax Court's judgment becomes final, may the IRS issue a tax assessment. *Id.* In the meantime, the IRS's mailing of a notice of deficiency tolls the statute of limitations. *Id.* § 6503(a).

examine (1) the text of § 6501(c)(1), (2) the statutory context of § 6501(c)(1), and (3) relevant precedent. All three reveal that § 6501(c)(1) is not limited to a taxpayer’s intent. We address each in turn.

**A. Section 6501(c)(1)’s Plain Text Applies to More Than Taxpayers**

“Our analysis begins with the statutory text.” *Mississippi ex rel. Hood v. AU Optronics Corp.*, 571 U.S. 161, 168 (2014) (citing *Sebelius v. Cloer*, 569 U.S. 369, 376 (2013)). “We give the words of a statute their ‘ordinary, contemporary, common meaning,’ absent an indication Congress intended them to bear some different import.” *Williams v. Taylor*, 529 U.S. 420, 431 (2000) (quoting *Walters v. Metro. Ed. Enters., Inc.*, 519 U.S. 202, 207 (1997)). “The ordinary or natural meaning may be determined by looking to dictionary definitions while keeping in mind the whole statutory text, the purpose, and context of the statute, and relevant precedent.” *United States v. Brow*, 62 F.4th 114, 120 (3d Cir. 2023).<sup>3</sup> “We also are mindful that ‘[t]here is no canon against using common sense in construing laws as saying what they obviously mean.’” *United States v. Lucidonio*, 137 F.4th 177, 183 (3d Cir. 2025) (alteration in original) (quoting *Koons Buick Pontiac GMC, Inc. v. Nigh*, 543 U.S. 50, 63 (2004)).

Again, the question before us is whether the “intent to evade tax” exception in § 6501(c)(1) requires taxpayer intent. We conclude that it does not. Absent from § 6501(c)(1) is any express or implied textual indication that the “intent to evade tax” is cabined to the taxpayer. The structure of the statute focuses on the presence of “a false or fraudulent return with the intent to evade tax.” I.R.C. § 6501(c)(1). That is, an “intent to

---

<sup>3</sup> “[O]ur job is to interpret the words consistent with their ‘ordinary meaning . . . at the time Congress enacted the statute.’” *Wis. Cent. Ltd. v. United States*, 585 U.S. 274, 277 (2018) (alteration in original) (quoting *Perrin v. United States*, 444 U.S. 37, 42 (1979)). Because § 6501(c)(1) dates to 1918, we discuss definitions contemporaneous to that period. See *infra* III.B. (discussing § 6501(c)(1)’s origin in the Revenue Act of 1918).

evade tax” must attach to the “false or fraudulent return.”<sup>4</sup> But neither requirement facially includes any indication that the taxpayer must be the actor who intends to evade tax.

First, the plain and ordinary meaning of the phrase “intent to evade tax” reveals no taxpayer-only limitation. Neither “intent” nor “to evade” cabin the phrase “intent to evade tax” to a taxpayer because nothing about either term is restricted to certain individuals.<sup>5</sup> The only constituent part of “intent to evade tax” that does bear a connection to taxpayers is the term “tax.” That is because “tax[es]” are “portions of the property of the citizen, demanded and received by the government, to be disposed of to enable it to discharge its functions.” *Tax*, Black’s Law Dictionary (2d ed. 1910); *see Tax*, Webster’s Home, School, and Office Dictionary (1916) (“[A] rate or duty on income or property[.]”). As a result, taxes

---

<sup>4</sup> Section 6501(c)(1)’s two requirements are joined by “with,” establishing that “the intent to evade tax” must join the “false or fraudulent return.” *See, e.g., With*, Concise Oxford Dictionary of Current English (7th ed. 1919) (explaining that “with” is a preposition meaning, among other things, “having, carrying, possessed of, characterized by”); *see also With*, Webster’s Home, School, and Office Dictionary (1916) (“[D]enoting nearness or connection.”).

<sup>5</sup> “Intent” refers to a “[p]urpose; formulated design; a resolve to do or forbear a particular act; aim; determination.” *Intent*, Black’s Law Dictionary (2d ed. 1910). Said otherwise, “intent” is “the exercise of intelligent will, the mind being fully aware of the nature and consequences of the act which is about to be done, and with such knowledge, and with full liberty of action, willing and electing to do it.” *Id. Accord Intent*, Concise Oxford Dictionary of Current English (7th ed. 1919) (“Intention, purpose, esp. with [intent] to defraud [et]c.” (cleaned up)); *Intent*, Webster’s Home, School, and Office Dictionary (1916) (explaining that, when used as a noun, “intent” means “purpose; aim”). Evade means to “escape” or “avoid.” *Evade*, Concise Oxford Dictionary of Current English (7th ed. 1919); *Evade*, Webster’s Home, School, and Office Dictionary (1916); *cf. Evasion*, Black’s Law Dictionary (2d ed. 1910) (“A subtle endeavoring to set aside truth or to escape the punishment of the law.”).

refer to duties necessarily owed by an individual or entity. *See Tax*, Concise Oxford Dictionary of Current English (7th ed. 1919) (“Contribution levied on persons, property, or business, for support of government[.]”). But reading the whole phrase together, an “intent to evade tax” means that *someone* planned to avoid duties owed by an individual or entity to the Government. So, while an “intent to evade” does concern the taxes a taxpayer owes, the plain meaning of the words does not imply a specific actor.

Second, Congress’s decision to use passive voice in § 6501(c)(1) further evinces that the statute does not depend on a taxpayer’s intent. Congress drafted § 6501(c)(1) by focusing “on an event that occurs without respect to a specific actor, and therefore without respect to any [specific] actor’s intent or culpability.” *Dean v. United States*, 556 U.S. 568, 572 (2009). And by wording it this way, without listing who must intend to evade tax, “Congress was agnostic about who” did so. *Bartenwerfer v. Buckley*, 598 U.S. 69, 76 (2023) (cleaned up) (quoting *Watson v. United States*, 552 U.S. 74, 81 (2007)).<sup>6</sup>

Murrin responds with a few textual arguments. We begin with the strongest—that because the tax evaded is that owed by the taxpayer, the plainest reading of “intent to evade tax” must refer to a taxpayer’s conduct. Any other reading, Murrin stresses, would unnaturally interpret the statute contrary to any commonsense interpretation of it. *Cf. United States v. Fontaine*, 697 F.3d 221, 228 (3d Cir. 2012) (explaining that “we should ‘presume[] that the legislature intended exceptions to its language, which would avoid [absurd]’ results” (alterations in original) (quoting *Gov’t of the V.I. v. Berry*, 604 F.2d 221, 225 (3d Cir. 1979))). This is because the “plainest reading of section 6501(c)(1) is that the statute refers to the intent of the person with the legal duty to file the tax return and pay the tax: the taxpayer.” Opening Br. 24.

---

<sup>6</sup> “It is true, of course, that context can confine a passive-voice sentence to a likely set of actors.” *Bartenwerfer*, 598 U.S. at 76. But as we explain below, context here confirms that Congress’s use of passive voice in § 6501(c)(1) was purposeful. *See infra*.

Murrin’s argument is a fair one. And it certainly is true that § 6501(c)(1) applies when a taxpayer intends to evade tax. That much is beyond debate. But the plainest and most straightforward reading of § 6501(c)(1) is that it simply requires an “intent to evade tax” attached to a “false or fraudulent return,” and whether a taxpayer, accountant, lawyer, or tax preparer evinced such intent is beside the point. And while Murrin contends such a view is nonsensical, the Code establishes that Congress knows how to limit statutes to taxpayers when it intends to do so. *See infra* III.B. (detailing why §§ 6161(b)(3), 6663(c), 6664(c)(1), and 7454(a) establish this conclusion). That only strengthens our bottom-line view that were § 6501(c)(1) limited to a taxpayer’s intent, we would expect to see evidence of that in the statute.

Next, Murrin contends that because § 6501(a) explains that the “return” at issue is the taxpayer’s, “the fraudulent intent referenced in section 6501(c)(1) is by implication limited to fraud by the taxpayer.” Opening Br. 23–24. Not so. As the Tax Court explained, “[t]he specification of whose tax or return is at issue does not suggest, much less dictate, who had to intend to evade tax.” App. 10. Moreover, Congress expressly used the term “taxpayer” in § 6501(a) to define what return is at issue but declined to use the same qualifier in § 6501(c)(1). And “[w]hen Congress includes particular language in one section of a statute but omits it from a neighbor, we normally understand that difference in language to convey a difference in meaning.” *Bittner v. United States*, 598 U.S. 85, 94 (2023).

Murrin also argues that the Tax Court’s interpretation focuses only on the “false or fraudulent return” and thus renders “intent to evade tax” superfluous. We recognize that we must “give effect, if possible, to every clause and word of a statute,” but our interpretation of § 6501(c)(1) renders nothing superfluous in this statute. *Montclair Twp. v. Ramsdell*, 107 U.S. 147, 152 (1883); *see also Arlington Cent. Sch. Dist. Bd. of Educ. v. Murphy*, 548 U.S. 291, 299 n.1 (2006) (“[I]t is generally presumed that statutory language is not superfluous.”). As the Tax Court correctly explained, “[t]he obvious construction of the statutory text is that the intent to evade tax must be present in a false or fraudulent return, irrespective of who possesses that intent.” App. 10 (quoting

*BASR P'ship v. United States*, 795 F.3d 1338, 1358 (Fed. Cir. 2015) (Prost, C.J., dissenting)). But that construction of § 6501(c)(1) still requires an act (a “false or fraudulent return”) and a mental state (“with the intent to evade tax”). As a result, we fail to see why our interpretation of § 6501(c)(1) somehow excises “the intent to evade tax” from the statute.<sup>7</sup>

**B. Section 6501(c)(1)’s Statutory Context Shows That Congress Knows How to Limit Statutes to Taxpayers but Did Not Do So Here**

We turn next to the statutory context of § 6501(c)(1). “It is a fundamental canon of statutory construction that the words of a statute must be read in their context and with a view to their place in the overall statutory scheme.” *West Virginia v. EPA*, 597 U.S. 697, 721 (2022) (quoting *Davis v. Mich. Dep’t of Treasury*, 489 U.S. 803, 809 (1989)); *see also Davis*, 489 U.S. at 809 (“[S]tatutory language cannot be construed in a vacuum.”). And the statutory context shows that Congress knows how to limit statutes to taxpayer conduct when it wants to do so. For example, § 6663(a) authorizes the IRS to impose a fraud penalty when “any part of any underpayment of tax required to be shown on a return is due to fraud.” I.R.C. § 6663(a). But the fraud penalty does not apply when “the taxpayer acted in good faith” and had “reasonable cause.” *Id.* § 6664(c)(1). Nor does it apply for a joint return filed by a

---

<sup>7</sup> We pause to mention Murrin’s remaining argument that is adjacent to § 6501(c)(1)’s text—that our interpretation is unworkable. By not limiting § 6501(c)(1) to a taxpayer’s intent, Murrin argues that we would offend basic due process and fairness principles by not defining whose intent might matter. We need not determine the outer bounds of how an “intent to evade tax” applies in every context, however, because Murrin stipulated that her tax preparer intended to evade her taxes. But to the extent that Murrin suggests that courts are simply unable to address whether other third parties’ intent to evade tax can trigger § 6501(c)(1), the Tax Court has proven capable of doing so. *See, e.g., Browning v. Comm’r*, 102 T.C.M. (CCH) 460, at \*13–16 (2011) (conducting a detailed factual finding separately as to a taxpayer and his accountant for purposes of whether § 6501(c)(1) applied to the taxpayer).

married couple “unless some part of the underpayment is due to the fraud of such spouse.” *Id.* § 6663(c). And “[i]n any proceeding involving the issue whether the petitioner [that is, the taxpayer] has been guilty of fraud with intent to evade tax,” Congress required the IRS to carry the burden of proof on that issue. *Id.* § 7454(a).

A few important lessons flow from the Code’s fraud provisions in §§ 6663, 6664, and 7454. The first is that the fraud penalty in § 6663(a) simply says it applies when an underpayment is “due to fraud,” but Congress’s express reference to a taxpayer’s conduct three times in §§ 6663(c), 6664(c)(1), and 7454(a) make clear that the “fraud” in § 6663(a) refers to that of a taxpayer and not a third party’s fraud. Missing from the “intent to evade tax” in § 6501(c)(1) is any such contextual limitation, confirming that “intend to evade tax” includes no implied limitation. The second is that §§ 6663(c), 6664(c)(1), and 7454(a) demonstrate Congress’s knowledge about how to limit statutes to taxpayers.<sup>8</sup> As a result, we find it difficult to believe that despite Congress limiting provisions elsewhere by reference to a taxpayer’s conduct or allegations directed against the taxpayer, Congress included a limitation within “a false or fraudulent return with the intent to evade tax” despite not saying so. *Id.* § 6501(c)(1).

Murrin disagrees with our view of the Code for two reasons, but neither persuades. First, Murrin contends that the fraud penalty under § 6663(a) cuts against our interpretation. Because “due to fraud” in § 6663(a) and “intent to evade tax” in § 6501(c)(1) both are written in the passive voice, Murrin suggests that § 6663(a)’s limitation to a taxpayer’s conduct must carry over to § 6501(c)(1). As support, Murrin explains that both provisions date to the Revenue Act of 1918, and in that Act the phrase “intent to evade tax” described both the fraud penalty and statute-of-limitations exception. *See* Revenue Act of 1918, Pub. L. No. 65-254, §§ 250(b), 40 Stat. 1057, 1083 (applying fraud penalty when an “understatement is false or fraudulent with intent to evade the tax”); *id.* § 250(d),

---

<sup>8</sup> Congress likewise knows how to limit statutes to third parties like tax preparers. *See, e.g.*, I.R.C. § 6694(a) (penalizing tax preparers for, among other things, taking unreasonable tax positions).

40 Stat. at 1083 (applying exception to statute of limitations “in the case of false or fraudulent returns with intent to evade the tax”).

Murrin’s argument implicates the statutory canon of construction of *in pari materia*—the axiom that “a legislative body generally uses a particular word with a consistent meaning in a given context.” *Erlenbaugh v. United States*, 409 U.S. 239, 243 (1972). But identical words “may be variously construed, not only when they occur in different statutes, but when used more than once in the same statute or even in the same section.” *Env’t Def. v. Duke Energy Corp.*, 549 U.S. 561, 574 (2007) (quoting *Atl. Cleaners & Dyers, Inc. v. United States*, 286 U.S. 427, 433 (1932)). “Thus, the ‘natural presumption that identical words used in different parts of the same act are intended to have the same meaning’” is not inexorable, and it “readily yields whenever there is such variation in the connection in which the words are used as reasonably to warrant the conclusion that they were employed in different parts of the act with different intent.” *Id.* (quoting *Atl. Cleaners & Dyers, Inc.*, 286 U.S. at 433).

Looking past the fact that the modern-day fraud penalty differs in text from the historical analogue, Murrin points to the Revenue Act of 1918, which includes the same contextual limitations present in the Code today. Section 250(b), housing the fraud penalty now codified as § 6663(a), included various limitations that referenced taxpayers, their actions, and intent, but § 250(d), housing the statute-of-limitations exception now codified as § 6501(c)(1), did not. *See* Revenue Act of 1918, Pub. L. No. 65-254, § 250(b), 40 Stat. 1057, 1083 (exempting application of fraud penalty “if the return is made in good faith and the understatement of the amount in the return is not due to any fault of the taxpayer” or imposing a smaller penalty for understatements “due to negligence on the part of the taxpayer, but without intent to defraud”). Thus, Murrin’s emphasis on history only proves the same point reached by reference to the Code. Congress has never limited the scope of the statute-of-limitations exception despite doing so in the fraud penalty.<sup>9</sup>

---

<sup>9</sup> Murrin makes the same argument related to § 7454(a), which shifts the burden of proof to the IRS when it alleges “the petitioner [that is, the taxpayer] has been guilty of fraud with

Second, Murrin points to another provision, § 6161(b)(3), as support for why our interpretation is incongruous with the Code. That provision disallows extensions of time for payments of tax when a “deficiency is due to negligence, to intentional disregard of rules and regulations, or to fraud with intent to evade tax.” I.R.C. § 6161(b)(3). Section 6161(b)(3) is drafted like § 6501(c)(1), meaning nothing in § 6161(b)(3) suggests any limitation to its application when a third party intends to evade tax. Murrin argues that it is absurd to think that Congress would allow a third party to impact a taxpayer’s ability to seek an extension of time, further establishing the unreasonableness of our interpretation of § 6501(c)(1).

We disagree with Murrin. Section 6161(b)(3) establishes yet another piece of evidence supporting our interpretation of § 6501(c)(1) and the Code. Sections 6161(b)(3) and 6501(c)(1) deal with the IRS’s receipt of accurate payments of tax, and their provisions are not limited to a taxpayer’s intent. Sections 6663(c), 6664(c)(1), and 7454(a) deal with the imposition of fraud penalties on top of what taxes might be owed, and those provisions are limited to a taxpayer’s intent. Read together, Congress treats the payments of tax and the imposition of penalties differently. And it makes sense that Congress would “impose penalties on the taxpayer only when the taxpayer intended to evade the tax, while at the same time allowing the IRS to collect taxes based on an understated fraudulent return at any time.” *BASR*, 795 F.3d at 1360 (Prost, C.J., dissenting); *see also Asphalt Indus., Inc. v. Comm’r*, 384 F.2d 229, 234 (3d Cir. 1967) (explaining that the fraud penalty under § 6663(a) not only gathers revenue but also operates as a “civil sanction” that “bears a close resemblance to criminal liability”).

---

intent to evade tax.” Murrin suggests any case involving an intent to evade tax relates to a taxpayer. But § 7454(a) is yet another example of how Congress meant what it said and said what it meant; were § 6501(c)(1) limited to a taxpayer’s intent to evade tax, it could have drafted it precisely like § 7454(a) by specifying to whom the statute applies.

### C. Precedent Likewise Supports Our View

Finally, we examine the relevant precedent. The Supreme Court’s recent analysis of Congress’s use of passive voice also confirms our reading of § 6501(c)(1). In *Bartenwerfer*, the Supreme Court analyzed a provision of the Bankruptcy Code, 11 U.S.C. § 523(a)(2)(A), specifying that debt is not dischargeable when money is “obtained by . . . fraud.” 598 U.S. at 74. Because *Bartenwerfer* did not know about the fraud committed by her partner, she argued that the judgment was dischargeable in bankruptcy. *Id.* at 75. *Bartenwerfer* reasoned that “the statute is most naturally read to bar the discharge of debts for money obtained by *the debtor’s* fraud,” as the passive voice of the statute “hides the relevant actor in plain sight.” *Id.* The Supreme Court unanimously disagreed because the statute’s “[p]assive voice pull[ed] the actor off the stage,” meaning that all the Bankruptcy Code required was that “debt must result from someone’s fraud.” *Id.* at 75–76.

Section 6501(c)(1)’s “intent to evade tax” language is like the “obtained by fraud” language at issue in *Bartenwerfer*. Neither identifies who must intend to evade tax or who must obtain property by fraud. But like the language in *Bartenwerfer*, § 6501(c)(1) focuses on an event without regard to an actor—that is, Congress focused on a “false or fraudulent return with the intent to evade tax” without saying who must act. By pulling the taxpayer off the stage, Congress made its reasoning clear. The statute of limitations does not apply when someone intends to evade tax in the filing of a false or fraudulent return, taxpayer or not.<sup>10</sup>

---

<sup>10</sup> The Supreme Court also discussed common law fraud because while *Bartenwerfer* “paint[ed] a picture of liability imposed willy-nilly on hapless bystanders,” common law fraud principles establish that “innocent people are sometimes held liable for fraud they did not personally commit.” *Bartenwerfer*, 598 U.S. at 82–83. Murrin argues this fact makes *Bartenwerfer* inapposite because “tax-return preparers are not agents” and, thus, common law fraud’s application to this case would differ. *Loving v. IRS*, 742 F.3d 1013, 1017 (D.C. Cir. 2014). But even were that true, *Bartenwerfer*’s more general view that a passive-voice phrase, “on its face,” “pulls

*Bartenwerfer*'s analysis about the use of passive voice in statutes also aligns with the Supreme Court's last opinion interpreting § 6501(c)(1). See *Badaracco v. Comm'r*, 464 U.S. 386 (1984). *Badaracco* concerned a dispute about whether the statute of limitations is suspended under § 6501(c)(1) if an amended non-fraudulent tax return is filed to correct a previously filed fraudulent one. *Id.* at 388. Because § 6501(c)(1) allows a tax assessment "at any time," the Supreme Court held that nothing in the statute's "unqualified language" could "be construed to suspend its operation in the light of a fraudulent filer's subsequent repentant conduct." *Id.* at 393. And the Supreme Court explained that a statute of limitations like § 6501(c)(1) "must receive a strict construction in favor of the Government." *Id.* at 391 (quoting *E.I. Dupont de Nemours & Co. v. Davis*, 264 U.S. 456, 462 (1924)).<sup>11</sup> The taxpayers' position in *Badaracco* was similar to Murrin's, who advocates for a position unsupported by the statute's generally applicable language—language that we must read in the IRS's favor. Thus, we see nothing in the text of § 6501(c)(1) or in case law from the Supreme Court supporting Murrin's preferred interpretation; instead, we see case law supporting the opposite conclusion.

Moving past *Badaracco* and *Bartenwerfer*, Murrin responds that we are bound to adopt her interpretation because of this Court's holding in *Asphalt Industries*, 384 F.2d at 229. But Murrin misreads *Asphalt*. The president of Asphalt embezzled money and thus caused the corporation to file false or fraudulent tax returns. *Id.* at 231. We held that the

---

the actor off the stage" would remain. 598 U.S. at 75. So too would our view of § 6501(c)(1).

<sup>11</sup> Murrin suggests that this Court does not construe statutes of limitations in the IRS's favor when the taxpayer does not act fraudulently. Opening Br. 46 (citing *Lauckner v. United States*, 68 F.3d 69 (3d Cir. 1995)). We said no such thing in *Lauckner*, and the next year interpreted § 6501 with reference to the Supreme Court's direction in *Badaracco* to strictly construe it in a light favorable to the IRS. *Bachner v. Comm'r*, 81 F.3d 1274, 1279 (3d Cir. 1996). And regardless, strict construction or not, Murrin's argument runs counter to § 6501(c)(1)'s text and context.

president's embezzlement was not imputed to the corporation for purposes of § 6501(c)(1) in part because the tax fraud was simply a "subordinate element in [the president's] need to conceal his embezzlement." *Id.* at 235. We did not consider whether a party other than the taxpayer could independently satisfy § 6501(c)(1). And no one argued that the president's embezzlement constituted an intent to evade tax owed by Asphalt. Instead, we assumed "for present purposes" that "the meaning of fraud" is the same under both § 6501(c)(1) and § 6663(a) and held that the record was insufficient for § 6501(c)(1) to apply. *Id.* at 232. Thus, *Asphalt* does not answer the interpretive question before the Court today.

Murrin argues that affirming the Tax Court would "reject[] 100 years of tax jurisprudence," but that is not so. Opening Br. 2. As Murrin explains, it appears that the IRS first opined that § 6501(c)(1) applies in situations other than where a taxpayer intended to evade tax in 2001. IRS Field Service Advisory 200126019, 2001 WL 729653 (issued June 29, 2001). The Tax Court then held that § 6501(c)(1) applied in situations beyond when a taxpayer intends to evade tax. *See Allen v. Comm'r*, 128 T.C. 37 (2007) (applying § 6501(c)(1) because of a tax preparer's intent to evade tax). Following *Allen*, the Tax Court has applied § 6501(c)(1) in the context of a non-taxpayer's intent on several occasions, including on returns prepared by the same tax preparer Murrin used. *See Finnegan v. Comm'r*, T.C.M. (RIA) 2016-118, at \*7-9 (2016) (finding Howell's intent to evade tax rendered § 6501(c)(1) applicable); *see also Ames-Mechelke v. Comm'r*, 106 T.C.M. (CCH) 77, at \*7 (2013) (finding § 6501(c)(1) applied because of a tax preparer). Our holding today therefore does not reject a century's worth of tax jurisprudence; instead, we continue the well-trod ground laid by the Tax Court.

We do acknowledge, however, that our holding today departs from the Federal Circuit's opinion that the IRS is limited "to the three-year limitations period unless the taxpayer possessed the intent to evade tax." *BASR*, 795 F.3d at 1350 (majority opinion).<sup>12</sup> The Federal Circuit, in a decision

---

<sup>12</sup> Murrin contends that the Fifth Circuit in *Payne v. Comm'r*, 224 F.3d 415 (5th Cir. 2000), came to the same view as the Federal Circuit. The Fifth Circuit, in an appeal about whether

predating *Bartenwerfer*, reached this conclusion because it found the statute’s text revealed little and instead relied heavily on context, congressional intent, and legislative history. *See, e.g., id.* at 1343–45. Because we find that § 6501(c)(1)’s text and statutory context include no requirement that an “intent to evade tax” must come from a taxpayer, we respectfully part ways. *Accord id.* at 1358 (Prost, C.J., dissenting) (“[T]he obvious construction of the statutory text is that the intent to evade tax must be present in a false or fraudulent return, irrespective of who possesses that intent.”).

\* \* \* \* \*

Murrin faces financial pain. Murrin owes \$65,318 in underpayments of tax, \$13,064 in accuracy-related penalties, and an estimated \$250,000 in interest.<sup>13</sup> All date to tax returns

---

the Tax Court properly found that a taxpayer intended to evade tax under § 6501(c)(1), described how the IRS had to show evidence “from which fraudulent intent on the part of the taxpayer can be properly inferred.” *Id.* at 421 (emphasis omitted). The Fifth Circuit described the case in those terms because the actor at issue was the taxpayer. But nowhere did that court discern the meaning and scope of § 6501(c)(1) for a third party’s actions.

The only other Circuit that confronted this issue aligns with our view. *City Wide Transit, Inc. v. Comm’r*, 709 F.3d 102 (2d Cir. 2013). The Second Circuit, citing the Tax Court’s post-*Allen* precedent, stated: “we conclude that the limitations period for assessing [the taxpayer’s] taxes is extended if the taxes were understated due to fraud of the preparer.” *Id.* at 107. But the Second Circuit then explained how the issue before it was a “narrow” one because the taxpayer conceded that if the tax preparer filed taxes with an intent to evade, § 6501(c)(1) applied. As a result, while *City Wide Transit* appears to bolster our view, we are uncertain whether the Second Circuit’s statement concerning § 6501(c)(1) is cabined to the taxpayers’ concessions on appeal and, thus, do not rely on it.

<sup>13</sup> We emphasize that Murrin’s accuracy-related penalties and interest on the deficiencies are not before us because Murrin stipulated to the IRS’s proper determination of both. But in the proper case, even if the statute-of-limitations exception in

from decades ago. Murrin finds this patently unfair because her tax preparer caused the underpayments of tax. We understand her perspective. But we are bound to “consider . . . whether the policy [Murrin] favor[s] is that which Congress effectuated by its enactment of § 6501.” *Badaracco*, 464 U.S. at 398. And while Congress has limited imposing fraud penalties against a taxpayer without a taxpayer’s intent, § 6501(c)(1)’s text, context, and precedent establish that Congress was agnostic about whether the taxpayer intended to evade tax for purposes of the IRS’s full and accurate assessment of taxes.

#### IV. CONCLUSION

For the reasons discussed above, we will affirm the judgment of the Tax Court.

---

§ 6501(c)(1) applies, taxpayers are free to challenge accuracy-related penalties and interest. *See, e.g.*, I.R.C. § 6664(c)(1) (rendering the accuracy-related penalty and fraud penalty inapplicable when the taxpayer had a “reasonable cause” for the tax position and “acted in good faith”).

# United States Tax Court

T.C. Memo. 2024-10

STEPHANIE MURRIN,  
Petitioner

v.

COMMISSIONER OF INTERNAL REVENUE,  
Respondent

---

Docket No. 14614-19.

Filed January 24, 2024.

---

*Lawrence A. Sannicandro, Daniela Calabro, and Michael A. Guariglia,*  
for petitioner.

*Michael S. Rapiejko, Brian J. Bilheimer, and Michael J. De Matos,*  
for respondent.

## MEMORANDUM OPINION

URDA, *Judge*: The Internal Revenue Service (IRS) generally has three years from the filing of a federal income tax return to assess tax. This temporal limit disappears, however, when the IRS is faced with “a false or fraudulent return with the intent to evade tax.” I.R.C. § 6501(c).<sup>1</sup> In 2019 the IRS issued a notice of deficiency to petitioner, Stephanie Murrin, with respect to returns she and her then husband had filed, many years earlier, for their 1993–99 tax years. Although the Murrins did not intend to evade tax, their tax return preparer did, and, to that end, he put false or fraudulent information on the Murrins’ returns.

---

<sup>1</sup> Unless otherwise indicated, statutory references are to the Internal Revenue Code, Title 26 U.S.C. (I.R.C. or Code), in effect at all relevant times, and Rule references are to the Tax Court Rules of Practice and Procedure. We round all monetary values to the nearest dollar.

[\*2] The sole question before the Court is the same one we decided in *Allen v. Commissioner*, 128 T.C. 37 (2007): whether section 6501(c) applies only where a taxpayer herself has filed a false or fraudulent return with the intent to evade tax. The Code contains no such limitation, and we will adhere to our precedent.

### *Background*

The parties submitted this case for decision without trial under Rule 122 and have stipulated all material facts. Ms. Murrin lived in New Jersey when she timely filed her petition.

For tax years 1993 through 1999 (the years at issue), the Murrins relied on a tax return preparer, Duane Howell, to prepare their joint federal income tax returns, as well as returns for two partnerships in which Ms. Murrin was a general partner. Unbeknownst to the Murrins, Mr. Howell placed false or fraudulent entries on those returns with the intent to evade tax. The Murrins themselves did not put any false or fraudulent information on their returns, nor did they intend to evade tax.

The Murrins timely filed their 1993–99 tax returns. The IRS did not discover Mr. Howell’s fraudulent entries until well after the expiration of the three-year period of limitations to assess tax set forth in section 6501(a). In 2019 the IRS nonetheless issued a notice of deficiency to the Murrins for the years at issue, premised on the fraud exception to the three-year limitation embodied in section 6501(c). The notice determined deficiencies and accuracy-related penalties under section 6662 against the Murrins for all of the years in issue.

### *Discussion*

#### *I. Burden of Proof*

The parties submitted this case for decision without trial under Rule 122(a). The fact that a case has been submitted under Rule 122(a) “does not alter the burden of proof, or the requirements otherwise applicable with respect to adducing proof, or the effect of failure of proof.” Rule 122(b).

In this case the Commissioner bears the burden of proof under Rule 142(b), which places the burden on him “[i]n any case involving the issue of fraud with intent to evade tax.” The placement of the burden has no practical effect here, however. The parties have stipulated that

[\*3] Mr. Howell committed fraud with the intent to evade tax, and our resolution thus turns not on the proof before us but on the scope of section 6501(c).

## II. *Limitation on Assessment*

### A. *Introduction*

Section 6501(a) generally provides that “the amount of any tax imposed by this title shall be assessed within 3 years after the return was filed.” Section 6501(c) lays out several exceptions to this general limitation, including “[i]n the case of a false or fraudulent return with the intent to evade tax.” I.R.C. § 6501(c)(1). In that instance “the tax may be assessed . . . at any time.” *Id.* We have previously held in a precedential opinion that the section 6501(c)(1) exception to the statute of limitation encompasses the case where a tax return preparer prepares a false or fraudulent return with the intent to evade tax. *Allen*, 128 T.C. at 42; *see also Finnegan v. Commissioner*, T.C. Memo. 2016-118, *aff’d*, 926 F.3d 1261 (11th Cir. 2019);<sup>2</sup> *Ames-Mechelke v. Commissioner*, T.C. Memo. 2013-176, at \*14; *Eriksen v. Commissioner*, T.C. Memo. 2012-194, 2012 WL 2865875, at \*7; *Browning v. Commissioner*, T.C. Memo. 2011-261, 2011 WL 5289636, at \*13 n.14; *cf. City Wide Transit, Inc. v. Commissioner*, 709 F.3d 102, 107–08 (2d Cir. 2013), *rev’g on other grounds* T.C. Memo. 2011-279, 2011 WL 5884981.

Ms. Murrin argues that *Allen* was wrongly decided and asks us to reconsider our decision and hold in the alternative that section 6501(c) encompasses solely taxpayer fraud. As an initial matter, the doctrine of stare decisis counsels us to “follow the holding of a previously decided case, absent special justification.” *Sec. State Bank v. Commissioner*, 111 T.C. 210, 213 (1998), *aff’d*, 214 F.3d 1254 (10th Cir. 2000). Stare decisis “promotes the evenhanded, predictable, and consistent development of legal principles, fosters reliance on judicial decisions, and contributes to the actual and perceived integrity of the judicial process.” *Hesslink v. Commissioner*, 97 T.C. 94, 99 (1991) (quoting *Payne v. Tennessee*, 501 U.S. 808, 827 (1991)).

In cases of statutory construction, stare decisis has “special force,’ for ‘Congress remains free to alter what [courts] have done.’” *John R. Sand & Gravel Co. v. United States*, 552 U.S. 130, 139 (2008) (quoting

---

<sup>2</sup> The U.S. Court of Appeals for the Eleventh Circuit decided that appellants in *Finnegan* had waived their challenge to *Allen* and declined to exercise its discretion to consider that argument. *Finnegan v. Commissioner*, 926 F.3d at 1270.

[\*4] *Patterson v. McLean Credit Union*, 491 U.S. 164, 172–73 (1989)). This generally obviates our need to revisit or repeat the statutory analysis that led us to a prior decision, absent special justification. See *Midland Fin. Co. & Subs. v. Commissioner*, T.C. Memo. 2001-203, 2001 WL 868626, at \*3.

Ms. Murrin counters that this case features the type of special justification that supports revisiting precedent, namely a decision of the U.S. Court of Appeals for the Federal Circuit disagreeing with our holding in *Allen*. See *BASR P’ship v. United States*, 795 F.3d 1338, 1342 (Fed. Cir. 2015). We have previously declined to revisit our precedent in light of the Federal Circuit’s opinion, noting that each of the judges on the panel wrote separately and that “it is unclear . . . which interpretation of sect[ion] 6501(c)(1) would prevail.” *Finnegan*, T.C. Memo. 2016-118, at \*18 n.6. Laying out the scorecard: (1) the author of the majority opinion concluded that section 6501(c)(1) “suspends the three-year limitations period only when the IRS establishes that the taxpayer acted with the intent to evade tax,” *BASR*, 795 F.3d at 1342; (2) the author of the concurring opinion reasoned that “it is the taxpayer (or possibly his authorized agent) who must have the requisite ‘intent to evade tax,’” *id.* at 1351 (O’Malley, J., concurring); and (3) the author of the dissenting opinion agreed with our holding in *Allen*, *id.* at 1357–61 (Prost, C.J., dissenting).

The Federal Circuit’s position on the precise point before us is not clear. We further note that “there is no jurisdiction for appeal of any decision of the Tax Court to the [Federal Circuit]” in any event. *Finnegan*, T.C. Memo. 2016-118, at \*18 n.6; see I.R.C. § 7482(a)(1). *Stare decisis* principles thus would seem to weigh against our reconsideration of our precedent in light of *BASR*.<sup>3</sup>

## B. *Analysis*

Even if we were to conclude that *stare decisis* weighed in favor of reconsideration of *Allen*, we would reach the same result. As an initial matter, “limitations statutes barring the collection of taxes otherwise due and unpaid are strictly construed in favor of the Government.”

---

<sup>3</sup> Ms. Murrin suggests on reply that the Commissioner bears the burden of persuading the Court that *Allen* should be followed. To the contrary, “every successful proponent of overruling precedent has borne the heavy burden of persuading the Court that changes in society or in the law dictate that the values served by *stare decisis* yield in favor of a greater objective.” *Vasquez v. Hillery*, 474 U.S. 254, 266 (1986); *AHG Invs., LLC v. Commissioner*, 140 T.C. 73, 83 (2013).

[\*5] *Badaracco v. Commissioner*, 464 U.S. 386, 392 (1984) (quoting *Lucia v. United States*, 474 F.2d 565, 570 (5th Cir. 1973)) (addressing I.R.C. § 6501(c)(1)).<sup>4</sup> “Our task is to give effect to the will of Congress, and where Congress’s will has been expressed in language that has a reasonably plain meaning, that language must ordinarily be regarded as conclusive.” *Byrd v. Shannon*, 715 F.3d 117, 122 (3d Cir. 2013); *see also United States v. Ron Pair Enters., Inc.*, 489 U.S. 235, 241 (1989). “The plainness or ambiguity of statutory language is determined by reference 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). We will discuss each aspect in turn.

1. *Section 6501(c)(1)*

Our analysis begins, as always, with the text of the relevant statutory provision. *Ross v. Blake*, 578 U.S. 632, 638 (2016); *see also Doe I v. Scalia*, 58 F.4th 708, 715 (3d Cir. 2023); *Lawrence v. City of Phila.*, 527 F.3d 299, 316–17 (3d Cir. 2008). Section 6501(c)(1) provides that “[i]n the case of a false or fraudulent return with the intent to evade tax, the tax may be assessed, or a proceeding in court for collection of such tax may be begun without assessment, at any time.”

By its own terms, this provision does not restrict its application to cases where taxpayers personally had the intent to evade tax. *See Allen*, 128 T.C. at 40 (“Nothing in the plain meaning of the statute suggests the limitations period is extended only in the case of the taxpayer’s fraud.”). Instead, Congress showed itself agnostic as to who had to have the intent to evade tax, choosing to “key[] the extension [of the limitation period] to the fraudulent nature of the return” rather than

---

<sup>4</sup> Ms. Murrin argues that the presumption of strict construction of collection limitation statutes should be limited to cases in which the taxpayer committed fraud, as was the case in *Badaracco*. The cases cited in *Badaracco* make clear that this presumption comes from “the established general rule [that] a statute of limitation runs against the United States only when they assent and *upon the conditions prescribed*.” *Lucas v. Pilliod Lumber Co.*, 281 U.S. 245, 249 (1930) (emphasis added); *see also E. I. Du Pont de Nemours & Co. v. Davis*, 264 U.S. 456, 462 (1924) (“[A]n action on behalf of the United States in its governmental capacity . . . is subject to no time limitation, *in the absence of congressional enactment clearly imposing it*.” (Emphasis added.)). The identity of the perpetrator of the fraud thus is irrelevant for the operation of the presumption. We likewise reject Ms. Murrin’s assertion that this presumption does not operate in the context of an exception to a statute of limitation as the Supreme Court in *Badaracco* was interpreting section 6501(c)(1), the same provision at issue here.

[\*6] tie it to the taxpayer’s intent. *Id.* “[T]he obvious construction of the statutory text is that the intent to evade tax must be present in a false or fraudulent return, irrespective of who possesses that intent.” *BASR*, 795 F.3d at 1359 (Prost, C.J., dissenting).

The Supreme Court recently endorsed a similar interpretative path in the context of a Bankruptcy Code provision that featured an “actor off the stage.” *Bartenwerfer v. Buckley*, 598 U.S. 69, 75 (2023). In that case, Congress wrote the relevant provision in the passive voice and thus, as here, did not specify a particular actor. *Id.* at 74–76. The Supreme Court explained that Congress had “framed [the provision at issue] to ‘focu[s] on an event that occurs without respect to a specific actor, and therefore without respect to any actor’s intent or culpability.’” *Id.* at 75–76 (quoting *Dean v. United States*, 556 U.S. 568, 572 (2009)). Section 6501(c)(1), which focuses on the return and not the intent of a particular actor, compels the same result here.

Ms. Murrin responds with a textual argument of her own. Noting that the text identifies the tax and return at issue as belonging to the taxpayer, she contends that the intent to evade must also come from the taxpayer. This conclusion does not follow. The specification of whose tax or return is at issue does not suggest, much less dictate, who had to intend to evade tax. *Cf. BASR*, 795 F.3d at 1343 n.4 (rejecting the argument that the definition of return “renders the meaning of § 6501(c)(1) clear and unambiguous”).

In summary, section 6501(c)(1) applies “[i]n the case of a false or fraudulent return with the intent to evade tax,” with no additional qualification. The provision contains no requirement that the intent to evade belong to the taxpayer, *see Bartenwerfer*, 598 U.S. at 75–76, and we will not import a restriction that Congress saw fit not to impose, *see, e.g., Conn. Nat’l Bank v. Germain*, 503 U.S. 249, 253–54 (1992).

## 2. *Broader Statutory Context*

Nor does the broader statutory context compel a different interpretation. Like the Federal Circuit, Ms. Murrin argues that certain other Code provisions related to fraud (sections 6663, 7454(a), and 6161(b)(3)) weigh in favor of attaching a taxpayer-specific limitation to the intent requirement of section 6501(c)(1). We disagree. These Code provisions “reveal[] only that Congress knows how to explicitly limit the intent to evade tax to the taxpayer,” *BASR*, 795 F.3d at 1359 (Prost, C.J., dissenting), and chose not to do so here.

## [\*7] a. Section 6663

We first consider section 6663(a), which imposes a penalty “[i]f any part of any underpayment of tax required to be shown on a return is due to fraud.” That provision, like section 6501(c)(1), has its roots in the Revenue Act of 1918, ch. 18, 40 Stat. 1057, and contains no reference to the taxpayer. Ms. Murrin points out that the penalty nonetheless has been interpreted to encompass only fraud attributable to a particular taxpayer and concludes that a similar limitation should obtain here.

Section 6663(a) itself must be understood in the proper context, which demonstrates that it applies to a specific, culpable taxpayer. From its introduction in 1918, this penalty has been accompanied by a reasonable cause and good faith exception currently embodied in section 6664(c)(1), which provides that “[n]o penalty shall be imposed under section . . . 6663 . . . if it is shown that there was a reasonable cause . . . and that *the taxpayer acted in good faith.*” (Emphasis added.) Evidence that the fraud penalty applies exclusively to taxpayer fraud is furthered by section 6663(c), which limits the penalty in cases of joint returns to those who actually committed fraud. Although section 6663(a) does not explicitly speak in taxpayer-specific terms, the statutory context elucidates that the penalty applies only to a particular taxpayer. Similar context fails to suggest that the exception to the statute of limitation in section 6501(c)(1) must be similarly limited.

This point is brought into starker relief when considering the history of these provisions. Section 250(b) of the Revenue Act of 1918, 40 Stat. at 1083, which housed the original version of the section 6663(a) fraud penalty, provides:

If the amount already paid is less than that which should have been paid, the difference shall . . . be paid upon notice and demand . . . . In such case if the return is made in good faith and the understatement of the amount in the return is not due to any fault of the *taxpayer*, there shall be no penalty because of such understatement. If the understatement is due to negligence on *the part of the taxpayer*, but without intent to defraud, there shall be added as part of the tax 5 per centum of the total amount of the deficiency . . . .

If the understatement is false or fraudulent with intent to evade the tax, then . . . there shall be added as

[\*8] part of the tax 50 per centum of the amount of the deficiency.

(Emphasis added.) Although the fraud penalty portion of that section did not speak in terms of the culpability of a particular taxpayer, it did not need to: the provision as a whole made clear that the penalties and exceptions described therein applied to a particular taxpayer.

Section 250(d) of the Revenue Act of 1918, 40 Stat. at 1083, which embodied the first incarnation of section 6501(c)(1), contains no similar markers. Worded almost identically to the current version, it simply provides that “[e]xcept in the case of false or fraudulent returns with intent to evade the tax, the amount of tax due under any return shall be determined and assessed by the Commissioner within five years.” Thus, nothing in the text of section 250(d) offers support for adding the requirement pellucid in section 250(b).<sup>5</sup>

Ms. Murrin suggests that these provisions, which were originally two houses down from each other in the Revenue Act of 1918, should be read in *pari materia* considering their placement and the common subject matter of fraud. “The Supreme Court has recognized, however, that identical terms or phrases used in the Code need not be interpreted to have the same meaning where the sections in which they are found serve different legislative purposes.” *Yarish v. Commissioner*, 139 T.C. 290, 297 (2012) (citing *Don E. Williams Co. v. Commissioner*, 429 U.S. 569, 580–82 (1977)); *see also* 2B Norman J. Singer & J.D. Shambie Singer, *Sutherland Statutory Construction* § 51:3, at 222–28 (7th ed. 2012) (“Characterization of the object or purpose is more important than characterization of the subject matter to determine whether different statutes are closely enough related to justify interpreting one in light of the other.”). Although both section 6501(c)(1) and section 6663 deal with fraud, their purposes are vastly different and account for the different treatment.

The purpose of the former is to provide unlimited time to the Commissioner to assess the correct tax liability in the case of a false or fraudulent return “because of the special disadvantage to the Commissioner in investigating these types of returns.” *Allen*, 128 T.C. at 40; *see also Badaracco v. Commissioner*, 464 U.S. at 398; *BASR*, 795

---

<sup>5</sup> The parties joust over the meaning of a failed 1934 amendment, and a senator’s description of that amendment in passing. We attach no weight to their discussion given the plain text and the established history of this provision. *Cent. Bank of Denver, N.A. v. First Interstate Bank of Denver, N.A.*, 511 U.S. 164, 187 (1994).

[\*9] F.3d at 1361 (Prost, C.J., dissenting); *City Wide Transit, Inc. v. Commissioner*, 709 F.3d at 107; *Ballard v. Commissioner*, 740 F.2d 659, 663 (8th Cir. 1984) (“The lifting of the normal statute of limitations addresses the difficulties which sometimes arise in the discovery of deficiencies by virtue of taxpayer fraud . . .”), *aff’g in part, rev’g in part* T.C. Memo. 1982-466. Fraud—by whoever committed—places the tax collector in a “disadvantageous position” vis-à-vis the determination of a taxpayer’s correct tax liability. *Badaracco v. Commissioner*, 464 U.S. at 398. “[F]raud cases ordinarily are more difficult to investigate than cases marked for routine tax audits. Where fraud has been practiced, there is a distinct possibility that the taxpayer’s underlying records will have been falsified or even destroyed.” *Id.* “Thus, the lack of a statute of limitations for fraudulent returns with intent to evade tax in § 6501(c)(1) (and § 250(d)) reasonably compensates the government for the unique difficulty involved in discovering fraud and determining the taxpayer’s true tax liability.” *BASR*, 795 F.3d at 1361 (Prost, C.J. dissenting).

Section 6663(a) serves a markedly different purpose, which is tied to the culpability of a particular taxpayer. “The fraud penalty is a civil sanction provided primarily as a safeguard for the protection of the revenue and to reimburse the Government for the heavy expense of investigation and the loss resulting from a taxpayer’s fraud.” *Bell Cap. Mgmt., Inc. v. Commissioner*, T.C. Memo. 2021-74, at \*18; *see Helvering v. Mitchell*, 303 U.S. 391, 401 (1938); *cf. Asphalt Indus., Inc. v. Commissioner*, 384 F.2d 229, 234–35 (3d Cir. 1967) (explaining that Congress intends section 6663(a) “to punish and deter wrongful conduct”), *rev’g* 46 T.C. 622 (1966). “Given that the taxpayer must pay any tax penalty, Congress may reasonably only intend to penalize the taxpayer when the taxpayer is culpable.” *BASR*, 795 F.3d at 1360–61 (Prost, C.J. dissenting).

The broader statutory context reflects these divergent purposes, showing that the exception is tied to a false or fraudulent return with the intent to evade, not a particular person, while the penalty is taxpayer specific. The two statutes are not in *pari materia*, and the fraud penalty does not inform the reading of the exception.

b. *Section 7454(a)*

We are similarly unpersuaded by Ms. Murrin’s contention that section 7454(a) justifies restricting section 6501(c)(1) to cases where taxpayers themselves intended to evade tax. Section 7454(a) provides

[\*10] that “[i]n any proceeding involving the issue whether the petitioner has been guilty of fraud with intent to evade tax, the burden of proof in respect of such issue shall be upon the Secretary.”

According to Ms. Murrin, section 7454(a) “indicates that, when pursuing fraudulent conduct, Congress considered the fraudulent intent of only the taxpayer, not of a third party who advised or assisted the taxpayer.” We draw a different conclusion. In section 7454(a) Congress’s decision to explicitly limit the intent to evade tax to a taxpayer’s own intent belies the notion that such a limitation attaches to other sections of the Code pertaining to fraudulent conduct or the intent to evade tax. “Without such express limitation, the intent to evade tax encompasses others who cause a return to be fraudulent.” *BASR*, 795 F.3d at 1359 (Prost, C.J., dissenting).

The inclusion of this language carries another lesson. “[W]here Congress includes particular language in one section of a statute but omits it in another section of the same Act, it is generally presumed that Congress acts intentionally and purposely in the disparate inclusion or exclusion.” *Dean*, 556 U.S. at 573 (quoting *Russello v. United States*, 464 U.S. 16, 23 (1983)). Section 7454(a) “demonstrates that Congress only limits the intent to evade tax to the taxpayer’s intent in specific circumstances.” *BASR*, 795 F.3d at 1359 (Prost, C.J., dissenting). It did not do so here, and absent more, we must respect Congress’s decision.

Following the lead of the majority in *BASR*, Ms. Murrin attempts to save her argument by pointing to legislative history which states that “the [C]ommissioner should be placed in the position of party plaintiff and compelled to carry the burden of proving fraud whenever it is an issue in the case.” S. Rep. No. 70-960, at 38 (1928), *as reprinted in* 1939-1 C.B. (Part 2) 409, 435–36; *see also* *BASR*, 795 F.3d at 1344. According to Ms. Murrin, this Senate report supports the conclusion that, “‘whenever [fraud] is an issue in the case,’ it was fraud by the taxpayer, not by anyone else, that Congress sought to police.” *BASR*, 795 F.3d at 1345.

“But legislative history is not the law.” *Epic Sys. Corp. v. Lewis*, 584 U.S. 497, 523 (2018). And we do not believe that resorting to legislative history is called for here given the unambiguous nature of the text of sections 7454(a) and 6501(c)(1). *See, e.g., Milner v. Dep’t of Navy*, 562 U.S. 562, 572 (2011).

[\*11] Even if we were to consider the Senate report, it does not suggest that Congress thought that any reference to fraud carries with it the implicit limitation to a specific taxpayer. The legislative history shows that Congress was responding to a particular problem seen in Board of Tax Appeals cases where the “deficiency letter raises the issue that the [taxpayer] has been guilty of fraud.” 1939-1 C.B. (Part 2) at 435. The legislative history observed that “[p]roceedings before the [Board of Tax Appeals] involving that issue in some respects resemble penal suits.” *Id.* Congress responded to this specific problem by enacting section 7454(a). “This concern does not apply if another’s alleged intent to evade tax is at issue,” *BASR*, 795 F.3d at 1359 (Prost, C.J., dissenting), and the legislative history thus cannot carry the weight that Ms. Murrin seeks to put on it.

c. *Section 6161(b)(3)*

We find unconvincing Ms. Murrin’s argument that interpreting section 6501(c)(1) to mean what it says would undermine section 6161(b)(3). That provision prohibits the IRS from granting an extension to pay a tax deficiency when it is “due to negligence, to intentional disregard of rules and regulations, or to fraud with intent to evade tax.” I.R.C. § 6161(b)(3). Ms. Murrin points out that unless “fraud with intent to evade tax” is restricted to a taxpayer’s personal intent, “a taxpayer’s eligibility for relief under section 6161(b) could be conditioned on the act of some third party.” As we explained when interpreting the same phrase in the context of section 6501(c)(1), *see supra* Part II.B.1., we simply have no grounds for reading in an additional, unstated restriction to qualify the wording Congress adopted.

3. *Remaining Arguments*

Ms. Murrin also asserts that the interpretation adopted by this Court in *Allen* is inconsistent with several decisions of this Court and other courts, which concluded that section 6501(c)(1) did not apply to third parties who were unrelated to the preparation and filing of the return. *See BASR*, 795 F.3d at 1347 (“There are no allegations that [the taxpayer], or even its accountant, knew or should have known that the tax return was false or incorrect . . . .”); *Asphalt Indus., Inc., v. Commissioner*, 384 F.2d at 230; *Botwinik Bros. of Mass., Inc. v. Commissioner*, 39 T.C. 988, 990–91 (1963); *see also City Wide Transit, Inc. v. Commissioner*, 709 F.3d at 108 (observing that the tax return preparer who intended to evade taxes “was not a third party unrelated to the preparation and filing of the returns”). These cases are inapposite

[\*12] as they do not address the applicability of section 6501(c)(1) to a person who filed or prepared false or fraudulent returns with the intent to evade tax, as did Mr. Howell, the Murrins' tax return preparer.<sup>6</sup>

Our interpretation nonetheless accommodates the results in each. Section 6501(c)(1) is triggered by (1) a false or fraudulent return (2) with the intent to evade tax. The combination of a return with the intent requirement circumscribes the pool of actors whose intent might matter to those who had a hand in the preparation or filing of a tax return. I.R.C. § 6501(c)(1); *accord BASR*, 795 F.3d at 1343 (“A fraud is only committed via submission of a document when a person acting with an intent to defraud makes a false entry on that document.”). The decisions cited by Ms. Murrin each involved fraud perpetrated by third parties distant from the filing and preparation of the return, and thus section 6501(c)(1) did not apply. *See BASR*, 795 F.3d at 1343; *Asphalt Indus. v. Commissioner*, 384 F.2d at 230; *Botwinik*, 39 T.C. at 990–91.<sup>7</sup>

Finally, we are unpersuaded that the decision of the U.S. Court of Appeals for the Fifth Circuit in *Payne v. Commissioner*, 224 F.3d 415, 420–21 (5th Cir. 2000), *rev'g* T.C. Memo. 1998-227, has any relevance here, much less “[s]upports the [c]onclusion [t]hat [f]raudulent [i]ntent [i]s [d]etermined by [r]eference to the [t]axpayer’s [i]ntent.” In that case, the Fifth Circuit addressed whether evidence introduced by the Commissioner in the Tax Court sufficed to meet his burden of proof with respect to section 6501(c)(1). *Payne v. Commissioner*, 224 F.3d at 421. Although the Fifth Circuit’s analysis centered on the taxpayer before it,

---

<sup>6</sup> Ms. Murrin attempts to manufacture a conflict between *Allen* and the opinion of the U.S. Court of Appeals for the D.C. Circuit in *Loving v. IRS*, 742 F.3d 1013, 1017 (D.C. Cir. 2014), suggesting that *Allen* conflicted with the D.C. Circuit’s observation that “tax-return preparers are not agents.” The conclusion in *Allen*, however, did not stem from agency principles, but from the plain text of the Code, and in no way implicates the D.C. Circuit’s opinion. We likewise reject Ms. Murrin’s reliance on *United States v. Boyle*, 469 U.S. 241 (1985). The fact that a taxpayer has a nondelegable duty to file a return does not support the conclusion that a taxpayer must intend to evade tax for section 6501(c)(1) to apply.

<sup>7</sup> Each of our post-*Allen* decisions has similarly involved the conduct and intent of the person or persons who actually prepared the false or fraudulent returns at issue. *See Finnegan*, T.C. Memo. 2016-118, at \*17–27 (applying the fraud exception in the case of tax-preparer fraud); *Ames-Mechelke*, T.C. Memo. 2013-176, at \*19–21 (same); *Eriksen v. Commissioner*, 2012 WL 2865825, at \*12 (same); *City Wide Transit, Inc. v. Commissioner*, 2011 WL 5884981, at \*6 (same); *Browning v. Commissioner*, 2011 WL 5289636, at \*16 (same).

[\*13] the court did not suggest that only a taxpayer's intent to evade can trigger section 6501(c)(1), a question plainly not before that court.<sup>8</sup>

### III. *Conclusion*

We have concluded that no special justification exists warranting our reversal of *Allen*. Mr. Howell's preparation of false or fraudulent returns with the intent to evade tax is sufficient to trigger the indefinite period of limitation to assess tax. The Commissioner's deficiency determinations are timely.

To reflect the foregoing,

*Decision will be entered for respondent.*

---

<sup>8</sup> In her reply brief, Ms. Murrin raises for the first time that certain IRS Field Service Advice Memoranda interpreting section 6501(c)(1) violated the Administrative Procedure Act (APA). We generally deem issues raised for the first time on reply as waived or conceded. *See, e.g., Levert v. Commissioner*, T.C. Memo. 1989-333, 57 T.C.M. (CCH) 910, 917-18 (deeming an issue conceded when party did not raise it in his opening brief), *aff'd without published opinion*, 956 F.2d 264 (5th Cir. 1992); *cf. Thomas v. Roach*, 165 F.3d 137, 145-46 (2d Cir. 1999) (holding argument first raised in reply brief waived). Even if we were to consider this issue, Ms. Murrin fails to show that such non-precedential Field Service Advice Memoranda constitute rulemaking under the APA.

UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT

---

No. 24-2037

---

STEPHANIE MURRIN,  
Appellant

v.

COMMISSIONER OF INTERNAL REVENUE

---

(U.S. Tax Court No. 19-14614)

---

---

**SUR PETITION FOR REHEARING**

---

Present: CHAGARES, Chief Judge, HARDIMAN, SHWARTZ, KRAUSE, RESTREPO, BIBAS, PORTER, MATEY, PHIPPS, FREEMAN, MONTGOMERY-REEVES, CHUNG, and BOVE, Circuit Judges.

The petition for rehearing filed by Appellant in the above-entitled case having been submitted to the judges who participated in the decision of this Court, it is hereby ORDERED that the petition for rehearing by the panel is GRANTED. The Clerk is directed to file the amended opinion contemporaneously with this order. As the revisions do not affect the disposition of the appeal, the judgment will remain as filed.

A majority of the judges of the circuit in regular service not having voted for rehearing, the petition for rehearing by the Court en banc is DENIED.

BY THE COURT,

s/ Tamika R. Montgomery-Reeves  
Circuit Judge

Dated: October 17, 2025

kr/cc: All Counsel of Record