

No. _____

IN THE
Supreme Court of the United States

STEPHANIE MURRIN,
Petitioner,

v.

COMMISSIONER OF INTERNAL REVENUE,
Respondents.

**On Petition for a Writ of Certiorari to the
United States Court of Appeals
for the Third Circuit**

PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED

This case presents a direct and acknowledged conflict over an important question of federal tax law. Under the Internal Revenue Code (Code), the Internal Revenue Service (IRS) typically has three years from the date a tax return is filed to assess tax. 26 U.S.C. § 6501(a). But Congress created an exception to that three-year deadline for “false or fraudulent return[s] with the intent to evade tax.” 26 U.S.C. § 6501(c)(1). If that exception applies, the IRS can seek unpaid tax at any time. In the decision below, the Third Circuit held that this exception applies broadly—and the government faces no enforcement deadline at all—if a *third-party tax return preparer* (unbeknownst to the taxpayer herself) intentionally prepared a “false or fraudulent return with intent to evade tax.” Under this rule, it makes no difference if a taxpayer is entirely innocent and has no knowledge about, let alone any participation in, any wrongdoing. In so holding, the Third Circuit created a direct split with the Federal Circuit, which held that § 6501(c)(1) applies only when the taxpayer herself acted with “intent to evade tax.” The decision below thus leaves the meaning of a central limitations period of the Code dependent on the forum in which a taxpayer litigates.

The question presented is:

Whether, under 26 U.S.C. § 6501(c)(1), the IRS may assess tax beyond the Code’s three-year limitations period based solely on the fraudulent intent of a *third-party*, even when the taxpayer herself neither intended to evade tax nor knew of any wrongdoing.

RELATED PROCEEDINGS

United States Tax Court:

Stephanie Murrin v. Commissioner of Internal Revenue, No. 14614-19 (Feb. 6, 2024)

United States Court of Appeals (3d Cir.):

Stephanie Murrin v. Commissioner of Internal Revenue, No. 24-2037 (Aug. 18, 2025) (opinion and judgment)

Stephanie Murrin v. Commissioner of Internal Revenue, No. 24-2037 (Oct. 17, 2025) (amended opinion on panel rehearing; rehearing en banc denied)

TABLE OF CONTENTS

	<u>Page</u>
QUESTION PRESENTED.....	i
RELATED PROCEEDINGS	ii
TABLE OF CONTENTS	iii
TABLE OF AUTHORITIES.....	v
OPINIONS BELOW	1
JURISDICTION	2
STATUTORY PROVISIONS INVOLVED.....	2
INTRODUCTION.....	3
STATEMENT	5
I. Legal Background	5
II. Factual and Procedural Background.....	8
REASONS FOR GRANTING THE PETITION.....	11
I. The Decision Below Creates a Direct and Acknowledged Circuit Split Over the Scope of 26 U.S.C. § 6501(c)(1).	12
II. The Question Presented Is Exceptionally Important.	18
III. This Case Is an Ideal Vehicle for Resolving the Question Presented.	22
IV. The Decision Below Converts a Narrow Fraud Exception into a Regime of Perpetual Liability for Innocent Taxpayers	23
CONCLUSION	27

APPENDIX A 1a
APPENDIX B 22a
APPENDIX C 42a
APPENDIX D 62a
APPENDIX E 64a

TABLE OF AUTHORITIES

	<u>Page</u>
<u>Cases</u>	
<i>Allen v. Comm’r</i> , 128 T.C. 37 (2007)	7
<i>Badaracco v. Comm’r</i> , 464 U.S. 386 (1984)	25
<i>Bartenwerfer v. Buckley</i> , 598 U.S. 69 (2023)	10, 18, 25
<i>BASR P’ship v. United States</i> , 795 F.3d 1338 (Fed. Cir. 2015) .. 4, 7, 9, 13, 14, 15, 16, 17, 20	
<i>Flora v. United States</i> , 362 U.S. 145 (1960)	22
<i>Hinck v. United States</i> , 550 U.S. 501 (2007)	21
<i>Payne v. Comm’r</i> , 224 F.3d 415 (5th Cir. 2000)	7
<i>Raley v. Comm’r</i> , 676 F.2d 980 (3d Cir. 1982).....	27
<i>Stoltzfus v. United States</i> , 398 F.2d 1002 (3d Cir. 1968).....	27
<i>United States v. Updike</i> , 281 U.S. 489 (1930)	19

Statutes and Codes

United States Code,

Title 26, Section 6161.....	15
Title 26, Section 6201(a)	5, 6
Title 26, Section 6213(a)	8, 21
Title 26, Section 6404(h)	21
Title 26, Section 6501.....	2, 6, 9, 13, 15, 22, 25, 26
Title 26, Section 6501(a)	3, 6, 9, 13, 24, 25
Title 26, Section 6501(c).....	6, 15, 17
Title 26, Section 6501(c)(1) ..	3, 4, 5, 6, 7, 9, 10, 11, 12, 13, 14, 15, 16, 17, 20, 22, 23, 24, 25, 26
Title 26, Section 6501(e)(1)	26
Title 26, Section 6663.....	11
Title 26, Section 6663(a)	26
Title 26, Section 7442.....	8, 21
Title 26, Section 7454(a)	27
Title 26, Section 7482(b)	22
Title 26, Section 7701(a)(11)	5
Title 28, Section 1254(1)	2
Title 28, Section 1295(a)(3)	22
Title 28, Section 1346(a)(1)	4, 22
Title 28, Section 1491(a)	4

Internal Revenue Code,

Section 6161(b)(3).....	15
-------------------------	----

Revenue Act of 1918, Pub. L. No. 65–254, 40 Stat.

1057,	
Section 250	16
Section 250(b)	6, 16
Section 250(d)	6, 15, 16, 17

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COMMISSIONER OF INTERNAL REVENUE

On Petition for a Writ of Certiorari
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PETITION FOR A WRIT OF CERTIORARI

Stephanie Murrin respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Third Circuit in this case.

OPINIONS BELOW

The amended opinion of the court of appeals (App., *infra*, 1a–21a) is reported at 158 F.4th 527. The original opinion of the court of appeals (App., *infra*, 22a–41a) is reported at 152 F.4th 136. The opinion of the Tax Court (App., *infra*, 42a–61a) is unreported but available at 2024 WL 263011.

JURISDICTION

The judgment of the court of appeals was entered on August 18, 2025. A petition for panel rehearing was granted in part on October 17, 2025, and a petition for rehearing en banc was denied on the same date (App., *infra*, 62a–63a). On January 6, 2026, Justice Alito extended the time within which to file a petition for a writ of certiorari until February 17, 2026. The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1).

STATUTORY PROVISIONS INVOLVED

26 U.S.C. § 6501 provides in relevant part:

Limitations on assessment and collection

(a) General rule

Except as otherwise provided in this section, the amount of any tax imposed by this title shall be assessed within 3 years after the return was filed (whether or not such return was filed on or after the date prescribed) or, if the tax is payable by stamp, at any time after such tax became due and before the expiration of 3 years after the date on which any part of such tax was paid, and no proceeding in court without assessment for the collection of such tax shall be begun after the expiration of such period. For purposes of this chapter, the term “return” means the return required to be filed by the taxpayer (and does not include a return of any person from whom the taxpayer has received an item of income, gain, loss, deduction, or credit).

* * * * *

(c) Exceptions

(1) False return

In 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.

* * * * *

Additional relevant statutory provisions are reproduced in the appendix to this petition (App., *infra*, 64a–72a).

INTRODUCTION

This case presents a square and acknowledged conflict over an important and recurring question of federal tax law. Under the Code, the IRS typically has three years from the date a tax return is filed to assess tax. 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, permitting the IRS to seek unpaid taxes without temporal limit. App., *infra*, 4a.

The question presented here is whether the IRS can assess tax beyond the usual three-year deadline when the taxpayer’s *tax 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 significant. If read too broadly, this provision destroys repose for taxpayers who acted in good faith and complied with their tax reporting obligations, unexpectedly trapping innocent parties with sudden (and crushing) debt—all while excusing government delay. Yet in the proceedings below, the Third Circuit adopted the IRS’s position. In doing so, it exposed Murrin to tax, penalties, and interest for returns filed over *two decades* in the past—without any indication she had knowledge of any wrongdoing. In reaching that conclusion, the Third Circuit squarely rejected a contrary 2-1 decision of the Federal Circuit on the exact same question. App., *infra*, 19a (“our holding today departs from the Federal Circuit[]”); *BASR P’ship v. United States*, 795 F.3d 1338 (Fed. Cir. 2015). That division leaves the meaning of § 6501(c)(1) dependent on the forum in which a taxpayer litigates and disrupts the uniform nationwide application of the federal tax code. Worse yet, 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 United States Tax Court could now lose under the Third Circuit’s opposite position.¹ That open division is intolerable in a scheme that demands uniformity.

This question is also one of critical importance. Expert commentators have flagged the Third Circuit’s decision as one of the year’s “most significant federal

¹ 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.

tax decisions” (A. Farrell, *Top Federal Tax Decisions of 2025*, Law360 (Dec. 23, 2025) <<https://www.law360.com/tax-authority/articles/2421046?>>), and major stakeholders participated as amicus curiae at the circuit level, reflecting the issue’s importance.

Moreover, this case presents an excellent vehicle to resolve this issue. The single statutory question is a pure question of law, was outcome-determinative below, and arrives 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 § 6501(c)(1)’s fraud exception applies only when the taxpayer herself acted with intent to evade tax.

Because the courts of appeals are divided over whether § 6501(c)(1)’s unlimited limitations period applies only when the taxpayer herself acted with fraudulent intent, or instead whenever a third party associated with the return acted with such intent, and because this case presents an ideal vehicle for resolving that important and dispositive question of federal law, this Court’s review is warranted.

STATEMENT

I. Legal Background

The Code authorizes the Secretary of the Treasury, or his delegate, the Commissioner of Internal Revenue, to examine any tax return filed by a taxpayer. 26 U.S.C. § 6201(a); see also 26 U.S.C. § 7701(a)(11). If, during that examination, the

Commissioner determines that additional tax may be due, the Commissioner is authorized to “assess” tax, interest, and certain penalties—an administrative act that formally records the taxpayer’s liability and permits the government to pursue enforced collection through the statutory collection procedures provided by the Code. See 26 U.S.C. § 6201(a). Congress limited that assessment authority by establishing periods of limitation on assessment as set forth in § 6501.

Section 6501(a) provides the general rule that the Commissioner must assess tax within three years after a taxpayer files a return. 26 U.S.C. § 6501(a). Section 6501(c) sets forth various exceptions to this general rule. As relevant here, § 6501(c)(1) establishes one such exception, providing: “[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.”²

While the statute does not expressly state whose intent is required to suspend the three-year limitations period, for nearly a century, the answer was clear: only the taxpayer’s fraudulent intent. Accordingly, courts historically interpreted the

² This fraud-based exception is not new to the Code. Congress first enacted the same limitations-period exception in the Revenue Act of 1918, and it did so alongside the Act’s fraud-based penalty provision. See Revenue Act of 1918, Pub. L. No. 65-254, § 250(b), (d), 40 Stat. 1057, 1083. As discussed below, both fraud-based provisions were limited to the taxpayer’s own conduct. Congress has since restructured the Act, but there is no indication that it departed from the Act’s original meaning.

provision to require fraudulent intent by the taxpayer whose liability is at issue. See, e.g., *Payne v. Comm’r*, 224 F.3d 415, 421 (5th Cir. 2000) (requiring proof of “fraudulent intent on the part of the taxpayer”). Even the IRS adopted that position for decades, reflecting the uniform understanding of parallel language in corresponding provisions of the Code. IRS Field Service Advice 200104006, 2001 WL 632261 (Sept. 15, 2000). That settled construction began to change in 2001. In IRS Field Service Advice 200126019, 2001 WL 729653 (June 29, 2001), the IRS reversed course and concluded for the first time that § 6501(c)(1) applies based on a return preparer’s fraudulent intent even absent fraud by the taxpayer. Although the statutory text had not changed, just the government’s take on it, the Tax Court subsequently adopted that position in *Allen v. Comm’r*, 128 T.C. 37, 42 (2007), holding that the limitations period is set aside whenever a return is fraudulent, regardless of who committed the fraud (and even if the taxpayer is innocent).

In 2015, the Federal Circuit rejected the Tax Court’s contrary interpretation view and reaffirmed that § 6501(c)(1) applies only when “the taxpayer—and not a third party—acts with the requisite intent to evade tax.” *BASR P’ship v. United States*, 795 F.3d 1338, 1339 (Fed. Cir. 2015). The government has continued to press the broader interpretation adopted in *Allen* in Tax Court proceedings nationwide,

ensuring that the split has concrete and recurring consequences.³

II. Factual and Procedural Background

A. This case arose from the government’s attempt to assess additional taxes and penalties 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” (App., *infra*, 2a–3a), but Murrin herself neither knew of the fraud nor intended to evade tax (*id.*)⁴ To the contrary, Murrin acted in good faith and did not know about, let alone cause *any* false entries on any of the returns. *Id.* About purported underpayments on those stale returns. *Id.* Murrin contested the IRS’s

³ The Tax Court is a court of nationwide jurisdiction that hears deficiency cases from taxpayers across all circuits. See 26 U.S.C. §§ 6213(a), 7442.

⁴ App., *infra*, 2a, 43a. Howell had previously been criminally prosecuted and convicted in 1986 for preparing fraudulent tax returns for other taxpayers, and his certified public accountant license was suspended during the period in which he prepared the Murrins’ returns for 1993 through 1999. App., *infra*, 39a. The Murrins were unaware of Howell’s past misconduct. In 2007, Howell’s fraudulent conduct only became known when he pleaded guilty to federal charges of conspiring to defraud the United States, aiding and assisting in the preparation of false tax returns, and corruptly endeavoring to obstruct the administration of the internal revenue laws. App., *infra*, 39a (citing *Finnegan v. Comm’r*, T.C. Memo. 2016-118, at *5–10 (explaining Howell’s criminal indictment and conviction for a scheme to defraud the United States through the preparation of false and fraudulent tax returns)).

action in Tax Court, conceding the unpaid taxes but contesting the timeliness of the IRS's action. *Is/* (invoking § 6501(a)'s three-year limitations period). Despite all sides agreeing that Murrin herself did nothing wrong, the Tax Court held that § 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." *Id.*; see also *id.* at 3a, 61a.

The notice of deficiency determined approximately \$65,318 in additional tax and approximately \$13,064 in accuracy-related penalties. App., *infra*, 3a, 20a. By the time the notice was issued, accrued interest alone exceeded \$250,000. App., *infra*, 20a. In total, Murrin now faces more than \$328,000 in tax, penalties, and interest arising from returns filed between 1993 and 1999.

B. 1. The Third Circuit affirmed. App., *infra*, 1a–21a. The court initially confirmed the appeal "turns on" a single legal question: "our interpretation of § 6501." *Id.* at 3a. Critically, in resolving that question, the Third Circuit "respectfully part[ed] ways" with the Federal Circuit's competing decision in *BASR P'ship v. United States*, 795 F.3d 1338 (Fed. Cir. 2015). App., *infra*, 19a–20a; 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 Federal Circuit majority's rationale, "depart[ed]" from its holding, and sided instead with *BASR's* dissent. App., *infra*, 19a–20a (endorsing Chief Judge Prost's minority position).

The panel further explained that, although it recognized Murrin’s reading of the statute “is a fair one,” and although it “underst[oo]d” her “frustration with the IRS’s decision to assess tax beyond the statute of limitations due to the wrongdoing of someone other than her,” it nevertheless considered itself “bound” by its reading of § 6501(c)(1), which it viewed as “agnostic about who must intend to evade tax.” App., *infra*, 2a, 21a. It therefore held that § 6501(c)(1) does not require taxpayer intent to eliminate the three-year statute of limitations, and that the Code’s “indefinite limitations period” can be triggered by a third party’s misconduct alone. *Id.* at 4a.

The panel reached that conclusion through a three-step analysis of the statutory text and context. First, it held that nothing about “false or fraudulent return” or “intent to evade tax” “facially includes any indication that the taxpayer must be the actor who intends to evade tax.” App., *infra*, 6a. Although it conceded that the term “tax” “does bear a connection to taxpayers,” the court then contended that nothing about the terms “intent” or “to evade” were “restricted to certain individuals.” *Id.* Second, it concluded that what it termed Congress’s use of the passive voice indicated that Congress did not care who had the requisite intent, so long as someone did. *Id.* at 7a (citing *Bartenwerfer v. Buckley*, 598 U.S. 69 (2023)). Third, although it recognized that Murrin’s reading was a fair one, it reasoned that Congress knew how to limit provisions to taxpayers but had not done so here. *Id.* at 8a, 10a-12a.

In so doing, it dismissed the argument that its reading focused only on the “false or fraudulent return” and thus rendered “intent to evade tax” superfluous. App., *infra*, 9a. And in concluding that the statutory context supported its reading, it also dismissed the fact that Congress paired the fraud penalty (now § 6663) and the unlimited assessment provision (now § 6501(c)(1)) in the Revenue Act of 1918, using the same “intent to evade tax” language in both—thus confirming that the taxpayer’s intent was the touchstone. *Id.* at 12a. The panel’s decision untethered § 6501(c)(1) from that statutory design and concluded that the “‘intent to evade tax’ must attach to the ‘false or fraudulent return.’” Accordingly, the court held that § 6501(c)(1) does not require taxpayer intent and permits assessment beyond the three-year limitations period based solely on a third party’s misconduct. *Id.* at 4a.

2. The Third Circuit subsequently denied a petition for rehearing en banc but granted a petition for panel rehearing. App., *infra*, 62a–63a. In an amended opinion, the Third Circuit confirmed that its decision did not preclude Murrin from challenging penalties or interest “in a future proceeding.” *Id.* at 20a n.13. It otherwise left its holding unchanged.

REASONS FOR GRANTING THE PETITION

This case presents a direct, acknowledged conflict over the scope of an essential provision of the Code. The answer has broad consequences for the nation’s tax laws and for the fair and efficient administration of Congress’s tax scheme. It ultimately dictates whether finality and repose exist

for innocent taxpayers—or whether the government can pursue innocent parties “indefinitely” for a third party’s unilateral fraud. The Third Circuit below created a square split with the Federal Circuit. While it acknowledged that split, it overlooked its consequences: under the decision below, taxpayers who can afford to prepay alleged deficiencies can automatically usher disputes to the court of claims—where the Federal Circuit’s contrary rule controls—while all other taxpayers remain subject to the government’s (tardy) enforcement whims. The IRS should not be subject to a three-year limitations period (or no deadline at all) based entirely on the location of a taxpayer’s challenge. That profound arbitrariness is intolerable in a system that demands uniformity.

This Court’s intervention is warranted to resolve the acknowledged circuit split and restore a uniform interpretation of 26 U.S.C. § 6501(c)(1).

I. The Decision Below Creates a Direct and Acknowledged Circuit Split Over the Scope of 26 U.S.C. § 6501(c)(1).

The Third Circuit held that 26 U.S.C. § 6501(c)(1) permits the IRS to assess tax “at any time” whenever a tax return is false or fraudulent and someone acted with intent to evade tax—even if the taxpayer herself is entirely blameless, had no clue about the misconduct, and never intended to underpay her tax. App., *infra*, 2a–3a, 23a–24a. In so holding, the Third Circuit expressly rejected the 2-1 Federal Circuit’s contrary interpretation of the same statutory text on indistinguishable facts. App., *infra*, 46a–47a (rejecting the holding in *BASR P’ship v. United States*,

795 F.3d 1338 (Fed. Cir. 2015); adopting instead then-Chief Judge Prost’s “dissent[]”). Each court exhaustively analyzed § 6501’s text, structure, history, context, and purpose. Each considered the competing policy implications of permitting the government to saddle taxpayers with crushing tax liability decades after the fact—with zero warning to innocent citizens and families. Yet the Third Circuit held the government got the benefit of an “indefinite” limitations period, while the Federal Circuit, viewing the provision’s language together with the identical construction assigned parallel provisions across the Code, held the government to § 6501(a)’s three-year deadline.

The stark division on an issue of national importance is untenable; the Code should not impose different deadlines and protections for identically situated taxpayers. The conflict is clear and undeniable, and it should be resolved by this Court.

A. As the Third Circuit candidly acknowledged, the decision below directly contravenes settled law in the Federal Circuit. Like the Third Circuit, the Federal Circuit considered the statutory language, the structure, and scheme in considerable detail—but the majority arrived at precisely the opposite conclusion.

First, the Federal Circuit looked to the statutory language. In so doing, it “recognize[d] that Section 6501(c)(1) is silent as to which party or parties must have the requisite fraudulent intent to suspend the three-year statute of limitations for pursuing a past underpayment,” but held that “silence alone does not automatically compel the conclusion that Congress

intended that actions by parties other than the taxpayer could suspend the three year statute of limitations. *BASR P'ship*, 795 F.3d at 1343. To the contrary, it concluded, the reference to a return had to be understood in context. *Id.* Moreover, it held that courts cannot determine the meaning of the statutory language without examining that language in light of its place in the statutory scheme. *BASR P'ship*, 795 F.3d at 1343. And, as relevant to this question, it noted, other provisions in the Code relating to fraudulent conduct strongly suggest that the Code confines the “intent to evade tax” inquiry to the taxpayer’s intent. Specifically, it noted that “the precursor statute to § 6501(c)(1), in particular, confirms this understanding,” and that “[t]hese sources lead us to conclude that the reading of § 6501(c)(1) most ‘coherent and consistent’ with the statutory scheme is one that limits the application of this provision to cases involving a false or fraudulent return where the taxpayer acted with the intent to evade tax.” *Id.*

Second, the Federal Circuit engaged in a painstaking survey of other fraud-related provisions of the Code, concluding “that they contemplate fraud *by the taxpayer*, as opposed to by a person who merely contributed, albeit in a fraudulent way, to the filing of an inaccurate tax return.” *BASR P'ship*, 795 F.3d at 1344. And the Federal Circuit noted that the Government’s broad interpretation of § 6501(c)(1), if applied to other code provisions, could have unintended and unfortunate consequences. *Id.*, at 1346. For example, the court noted, it could prevent taxpayers from receiving an extension for payment of a tax deficiency under I.R.C. § 6161(b)(3), which

prohibits the IRS from granting an extension when the tax deficiency in question is “due to negligence, to intentional disregard of rules and regulations, or to fraud with intent to evade tax.” *Id.* Like the other statutory provisions discussed above, § 6161 does not expressly specify whether a third-party’s negligent or fraudulent conduct would prevent the taxpayer from receiving an extension. *Id.* Accordingly, the court noted, if the government prevailed in its view that § 6501(c)(1) permits the IRS to look beyond the taxpayer for the requisite intent, the same would surely apply under § 6161. *Id.*

Third, the court noted that the IRS had obviously changed its position on the interpretation of § 6501(c)(1),” but that it was “unclear what prompted this change in the IRS’s position, given that Congress had not altered the text of § 6501(c)(1) in any meaningful way over the past century” and that the statutory history did not support the IRS’s position. *Id.* at 1348. The panel then addressed § 6501(c)’s origins, explaining that the concept of limiting the time period during which the IRS could assess tax originated almost 100 years ago in the same statutory provision that authorized the IRS to impose penalties for underpayment. *BASR P’ship*, 795 F.3d at 1339 (citing Revenue Act of 1918, Pub. L. No. 65–254, 40 Stat. 1057). “[R]eviewing the evolution of § 6501 from its origin as § 250(d) of the Revenue Act of 1918 is instructive on understanding the proper interpretation. The context provided by this predecessor statute confirms that Congress intended that only the taxpayer’s intent to evade tax could trigger the unlimited limitations period that now appears in § 6501(c)(1).” *Id.*

Specifically, as it explained, the fraud penalty and the fraud suspension of the statute of limitations appeared together in § 250 of the Revenue Act of 1918. *Id.* Section 250(b) imposed certain penalties for underpayment when the underpayment resulted from the taxpayer’s negligence or intent to evade tax: as it provided, “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 part of the tax 50 per centum of the amount of the deficiency.” *Id.* As the government agreed in *BASR*, the fraud penalty provision in § 250(b) “focuses solely on the taxpayer’s own intent.” *Id.*

That fact, the majority concluded, necessarily informs the reading of § 250(d), which appears two subsections later, borrows the “false or fraudulent with intent to evade tax” language from § 250(b), and uses it to describe situations when the normal period for assessing tax may be extended indefinitely. Although “Section 250(d) does not expressly identify whose ‘intent to evade the tax’ could be used to extend the limitations period, the mirroring language in § 250(b), which *is* directed to the taxpayer’s intent, informs the interpretation of § 250(d).” With this in mind, the court held, “it becomes abundantly clear that the focal point of § 250 is the intent *of the taxpayer*. The taxpayer’s intent is central to

determining whether to impose a penalty *and* whether the IRS may avail itself of an unlimited period to assess tax.” *Id.* at 1349. And while those sections had subsequently been recodified and reorganized, “nothing in the recodification and reorganization process altered the meaning of the terms ‘intent’ and ‘fraudulent’ as used in this predecessor statute.” *Id.* Accordingly, it concluded, “[t]he language, structure, and history of the Code leads ... to the conclusion that the Claims Court properly interpreted § 6501(c)(1) as limiting the IRS to the three-year limitations period unless the taxpayer possessed the intent to evade tax.” *Id.* at 1350; but see 795 F.3d at 1357-1361 (Prost, C.J., dissenting).

B. In sum: In *BASR*, the Federal Circuit *rejected* the government’s contention that § 6501(c)(1) turns solely on the existence of a “fraudulent return,” regardless of who committed the fraud. 795 F.3d at 1339–46. Instead, the Federal Circuit held “§ 6501(c)’s suspension of the three-year limitation applies only when the taxpayer—and not a third party—acts with the requisite ‘intent to evade tax.’” 795 F.3d at 1339. The Third Circuit reached the opposite conclusion: “the ‘intent to evade tax’ exception in § 6501(c)(1)” does *not* require “the taxpayer” to “be the actor who intends to evade tax.” App., *infra*, 5a–6a. Each court examined the same arguments and the same universe of material, canvassing the same text, context, structure, history, agency guidance, policy, and purpose. And yet each adopted opposite conclusions. The debate has been fully exhausted, and there is no reasonable prospect that the conflict will resolve itself

without this Court’s intervention. Review is warranted now.

II. The Question Presented Is Exceptionally Important.

A. The question presented is exceptionally important. This issue determines whether the statute of limitations affords taxpayers any meaningful repose from stale and substantial tax liabilities based on another person’s misconduct—even when that misconduct took place *decades* earlier and the taxpayer was entirely unaware of it. When assessment is permitted without any temporal limit, the result is devastating for taxpayers who, due to the passage of time, not any fault of their own, cannot prove the accuracy of their tax returns or the fraud (or lack thereof) by their return preparer. Those taxpayers are left to defend their tax returns when the government suddenly appears unannounced, out of nowhere, asserting massive tax liabilities from *decades* earlier. And the insult added to that injury is an innocent party’s financial life can be turned upside-down based on *someone else’s* fraud—conducted in the far-off past and entirely unbeknownst to the law-abiding party.⁵

⁵ The Third Circuit suggested its rationale was supported by *Bartenwerfer*, and it noted in passing that *Bartenwerfer* pre-dated the Federal Circuit’s competing decision. Yet *Bartenwerfer* cannot save the obvious circuit conflict. That case arose in a different context (a dischargeability question under the Bankruptcy Code); the “passive-voice” concept arose long before *Bartenwerfer* (which is why that decision itself -- in the very passages the Third Circuit cites -- invoke pre-Federal Circuit decisions); and *Bartenwerfer* itself emphasized that “context”

It is well established that Congress created a fraud exception because fraudulent conduct may be more difficult to detect within the general three-year statute of limitations on tax assessments. Courts have long recognized that principle. But Congress did not adopt an unlimited fraud-based regime untethered from taxpayer conduct. It conditioned the elimination of repose on the presence of “intent to evade tax.” The question here is not whether fraud warrants additional time; it is whether Congress authorized eliminating the limitations period when the taxpayer herself committed no fraud at all. The disparity is stark: the statute may reasonably allow additional time to pursue a taxpayer who engaged in fraud, but it cannot fairly be read to eliminate all temporal limits on assessment against a taxpayer who did not. See, e.g., *United States v. Updike*, 281 U.S. 489, 495 (1930) (open-ended enforcement periods “out of harmony with the obvious policy of the act to promote repose by fixing a definite period after assessment within which suits and proceedings for the collection of taxes must be brought”).

The Third Circuit’s and the government’s interpretation undermines the central function of a limitations period: at some point, parties are entitled to repose to structure their finances and affairs, and ensure their futures are not subject to indefinite assessment. As noted above, with the passage of decades, evidentiary burdens increase, records are lost, and memories fade, particularly where the

dictates the result (App., *infra*, 7a n.6) -- the Court did not announce a new rule, let alone a global rule that somehow overrides the Federal Circuit’s careful examination of a fundamental question of federal tax law.

taxpayer is not defending her own conduct but attempting to disprove a third party's conduct—and harder yet, intent.

There is a reason that Congress limited *every* other associated Code provision involving fraud to misconduct committed by the taxpayers themselves. *BASR P'ship*, 795 F.3d at 1344. There is likewise a reason that Congress embraced this rule (with these important limitations) when it restructured the Code—borrowing the settled understanding from the 1918 Act. And there is a reason that the IRS itself adhered to this commonsense construction for *nearly a century*—before changing its interpretation without any relevant change in the statutory text. The result is a direct and acknowledged conflict over the meaning of a core limitations provision.

This issue is highly significant for innocent taxpayers caught up in a third party's fraud. No one suggests taxpayers who submit a false or fraudulent return with the intent to evade tax should avoid consequences—and those taxpayers at least are on notice of the possibility that the government may seek to collect unpaid taxes. But an *innocent* taxpayer has no notice of concealed misconduct. Whether Congress intended § 6501(c)(1) to eliminate repose in such circumstances is a question of substantial and recurring importance warranting this Court's review.

B. Review is also essential in light of the overriding importance of uniformity in the nation's tax laws. See, *e.g.*, *Hinck v. United States*, 550 U.S. 501, 506–08 (2007) (resolving a conflict between the Federal Circuit and a regional circuit concerning the

proper forum for review under 26 U.S.C. § 6404(h)). It makes little sense to say taxpayers in different regions should face different limitations rules based on geography alone. Yet as it now stands, taxpayers in the Third Circuit can face assessment without temporal limitation, while taxpayers in the Federal Circuit have a complete defense to stale IRS efforts—cabined at *three years*. This issue sharply split a panel of the Federal Circuit, and it has now squarely divided the courts of appeals—with the Third Circuit openly “departing” from the Federal Circuit’s position. App., *infra*, 19a. Absent review, the conflict will persist as additional courts confront the same question. The issue has been fully ventilated by two courts of appeals that examined the same statutory text, structure, and history yet reached opposite conclusions. Further percolation is unlikely to eliminate the division or add meaningfully to the debate, given the detailed analyses of both appellate courts.

This conflict is particularly pernicious in this setting. Given the way taxpayers can challenge IRS assessments, parties now have the *option* of litigating in the Federal Circuit or elsewhere—so long as they can afford to prepay any alleged tax deficiency in advance.⁶ As a practical matter, taxpayers with

⁶ In a nutshell: Taxpayers who wish to challenge a deficiency without prepaying the asserted tax must proceed in the Tax Court. See 26 U.S.C. §§ 6213(a), 7442. Taxpayers who prepay the asserted liability may bring a refund suit in the Court of Federal Claims or the appropriate U.S. district court. See 28 U.S.C. § 1346(a)(1); *Flora v. United States*, 362 U.S. 145, 156 (1960). Appeals from the Court of Federal Claims lie exclusively in the Federal Circuit. See 28 U.S.C. § 1295(a)(3). Appeals from the Tax Court in deficiency proceedings generally lie in the court

sufficient means can defeat stale IRS enforcement efforts (since the Federal Circuit’s precedent will control); taxpayers who lack sufficient means will be stuck litigating in regional circuits—where the IRS’s staggering interpretation may prevail.

No one benefits from a tax system that produces opposite outcomes based on the forum in which a case is litigated. The Code should not turn on geography alone, and it should not depend on a taxpayer’s ability to prepay an assessment. Review is essential to ensure the fair and uniform administration of the nation’s tax laws.

III. This Case Is an Ideal Vehicle for Resolving the Question Presented.

This case is the ideal vehicle for deciding this important question. The dispute turns on a pure question of law: namely, the proper scope of 26 U.S.C. § 6501(c)(1). App., *infra*, 3a (the appeal “turns on” a single legal question—“our interpretation of § 6501”). That question was squarely raised and resolved at each stage below. There are no factual or procedural impediments, and the “material facts” are “undisputed.” *Id.* at 2a. The court below exhaustively examined the issue and rejected a 2-1 decision of the Federal Circuit—expressly repudiating the Federal Circuit’s majority and siding instead with the dissent. *Id.* at 9a, 19a-20a (“we respectfully part ways”). The

of appeals for the circuit in which the taxpayer resides or has its principal place of business. See 26 U.S.C. § 7482(b). The end result: anyone with the means to prepay the asserted liability can purchase a three-year limitations period; anyone who lacks those funds is stuck at the mercy of a regional circuit court.

sole statutory question is binary: if a third party's fraud is sufficient, the government wins; if the taxpayer's fraud is required, the government loses. The ability of the government to target innocent taxpayers *decades* after *someone else's* wrongdoing (with an "indefinite limitations period") hangs in the balance. *Id.* at 4a.

The question, in short, is cleanly presented, and there are no obstacles to resolving it here. In the meantime, a fundamental component of the nation's tax laws will turn entirely on geography—or the fiscal ability of a taxpayer to litigate in a particular forum. That division warrants this Court's review.

IV. The Decision Below Converts a Narrow Fraud Exception into a Regime of Perpetual Liability for Innocent Taxpayers.

The Third Circuit's interpretation of 26 U.S.C. § 6501(c)(1) is also wrong. It fundamentally alters the balance Congress struck between repose and enforcement in the federal tax system. By holding that the statute permits assessment "at any time" based solely on the undisclosed fraudulent intent of a third party involved in preparing or filing a return, the decision below transforms a narrow fraud exception into a mechanism for effectively indefinite liability against taxpayers who acted in good faith, complied with their reporting obligations, and neither intended nor knew of any wrongdoing.

That transformation is not compelled by the statutory text, structure, or history. The decision below severs the intent requirement from the

taxpayer's own conduct, thereby expanding the fraud exception beyond its textual and historical bounds.

1. As a general rule, “the amount of any tax imposed by this title shall be assessed within 3 years after the return was filed.” 26 U.S.C. § 6501(a). Congress departed from that baseline only in carefully delineated circumstances. Put differently, the statutory text links the forfeiture of the three-year limitations period to the presence of “intent to evade tax.” That phrase is not surplusage. It is the statutory condition that distinguishes ordinary errors or misstatements from conduct that justifies withdrawal of repose. If Congress had intended § 6501(c)(1) to apply whenever a return is false or fraudulent, without regard to whose intent was involved, it could have said so by authorizing assessment “in the case of a false or fraudulent return.” It did not. Congress instead required fraud “with the intent to evade tax,” making intent a necessary element of the exception rather than a descriptive aside.

Moreover, the grammatical structure of § 6501(c)(1) reinforces the conclusion that the statute withdraws repose only when the taxpayer herself acted with intent to evade tax. The provision uses the transitive verb “evade” with “tax” as its object, repeatedly referring to “the tax” and “such tax.” 26 U.S.C. § 6501(c)(1). Those terms most naturally refer to the taxpayer's own tax liability—the only tax that may be assessed under § 6501. Nothing in the statutory text suggests that Congress conditioned the forfeiture of the taxpayer's statutory repose on the intent of a third party to evade a tax that the third party does not owe and that he or she is not legally

obligated to report or pay. Indeed, it would be anomalous to condition the withdrawal of the taxpayer's statutory repose on a third party's intent to evade a tax that only the taxpayer owes and that only the taxpayer is legally obligated to report and pay.

That linkage is confirmed by § 6501(a), which defines the relevant “return” for limitations purposes as “the return required to be filed by the taxpayer.” 26 U.S.C. § 6501(a). This Court has instructed that statutory terms carry consistent meaning throughout § 6501. *Badaracco v. Comm’r*, 464 U.S. 386, 397 (1984). Read together, §§ 6501(a) and 6501(c)(1) establish that the fraud exception concerns a return required to be filed by the taxpayer and withdraws repose only when that return is false or fraudulent with intent to evade tax—i.e., when the taxpayer acted with such intent.

The court of appeals reached its contrary interpretation by focusing on § 6501(c)(1)'s grammatical structure rather than on the relationship between intent and liability embedded in the limitations framework as a whole, notwithstanding this Court's instruction that “context counts” and that passive-voice formulations do not, standing alone, answer questions about whose conduct triggers legal consequences. *Bartenwerfer v. Buckley*, 598 U.S. 69, 78 (2023).

2. The structure of the statutory scheme provides the necessary context. Section 6501(c)(1) does not operate in isolation. It is part of a carefully calibrated statutory scheme in which Congress differentiated among multiple limitations rules

depending on the nature of the taxpayer’s conduct. Congress demonstrated within § 6501 itself that it knows how to extend the assessment period without regard to intent when it wishes to do so. Most notably, § 6501(e)(1) extends the limitations period from three years to six years when a taxpayer omits more than 25 percent of gross income from a return—without any requirement of fraudulent intent. 26 U.S.C. § 6501(e)(1). That provision reflects Congress’s judgment that certain objectively measurable reporting failures justify additional time for assessment even absent culpability.

By contrast, § 6501(c)(1) does not turn on the magnitude of an omission or the complexity of detection. It requires, and indeed turns on, intent. Congress retained that intent requirement even as it authorized intent-neutral extensions elsewhere in the same statutory section. That choice would have no apparent justification in the statute’s text or structure if § 6501(c)(1) already applied whenever a return is fraudulent due to anyone’s intent, including third parties beyond the taxpayer’s knowledge or control.

The court of appeals’ reading also creates an asymmetry between § 6501(c)(1) and other fraud-related provisions of the Code. For example, the civil fraud penalty in § 6663(a) applies only when an underpayment is “due to fraud,” a phrase courts have uniformly interpreted to require fraud by the taxpayer. See *Stoltzfus v. United States*, 398 F.2d 1002, 1004 (3d Cir. 1968); see also *Raley v. Comm’r*, 676 F.2d 980, 983 (3d Cir. 1982). Likewise, § 7454(a) places the burden of proof on the Commissioner “[i]n any proceeding involving the issue whether the

petitioner has been guilty of fraud with intent to evade tax,” again focusing on taxpayer conduct. This Court’s review is warranted to address that asymmetry.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted.

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APPENDIX

APPENDIX TABLE OF CONTENTS

	Page
APPENDIX A: OPINION, U.S. Court of Appeals for the Third Circuit (October 17, 2025)	1a
APPENDIX B: OPINION, U.S. District Court for the Third Circuit (August 18, 2025)	22a
APPENDIX C: MEMORANDUM OPINION, U.S. Tax Court (January 21, 2024)	42a
APPENDIX D: GRANTING OF REHEARING / DENIAL OF REHEARING EN BANC, U.S. Court of Appeals for the Third Circuit (October 17, 2025)	62a
APPENDIX E: STATUTORY PROVISIONS.....	64a

1a

**APPENDIX A — OPINION OF THE UNITED STATES
COURT OF APPEALS FOR THE THIRD CIRCUIT,
FILED OCTOBER 17, 2025**

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)

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

Appendix A

taxpayer files her return. I.R.C. § 6501(a).¹ 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

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

Appendix A

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 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

Appendix A

tax may be begun without assessment, at any time.”² To determine whether taxpayer intent is necessary to trigger the indefinite limitations period in § 6501(c)(1), we 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, 134 S. Ct. 736, 187 L. Ed. 2d 654 (2014) (citing *Sebelius v. Cloer*, 569 U.S. 369, 376, 133 S. Ct. 1886, 185 L. Ed. 2d 1003 (2013)). “We give the words of a statute their ‘ordinary, contemporary, common meaning,’ absent an

2. 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).

Appendix A

indication Congress intended them to bear some different import.” *Williams v. Taylor*, 529 U.S. 420, 431, 120 S. Ct. 1479, 146 L. Ed. 2d 435 (2000) (quoting *Walters v. Metro. Ed. Enters., Inc.*, 519 U.S. 202, 207, 117 S. Ct. 660, 136 L. Ed. 2d 644 (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, 77 V.I. 820 (3d Cir. 2023).³ “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, 125 S. Ct. 460, 160 L. Ed. 2d 389 (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 evade tax” must attach to

3. “[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, 138 S. Ct. 2067, 201 L. Ed. 2d 490 (2018) (alteration in original) (quoting *Perrin v. United States*, 444 U.S. 37, 42, 100 S. Ct. 311, 62 L. Ed. 2d 199 (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).

Appendix A

the “false or fraudulent return.”⁴ 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.⁵ 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

4. Section 6501(e)(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.”).

5. “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.”).

Appendix A

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 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, 129 S. Ct. 1849, 173 L. Ed. 2d 785 (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, 143 S. Ct. 665, 214 L. Ed. 2d 434 (2023) (cleaned up) (quoting *Watson v. United States*, 552 U.S. 74, 81, 128 S. Ct. 579, 169 L. Ed. 2d 472 (2007)).⁶

6. “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*.

Appendix A

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, 57 V.I. 914 (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 V.I. v. Berry*, 604 F.2d 221, 225, 16 V.I. 614 (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.

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.

Appendix A

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, 143 S. Ct. 713, 215 L. Ed. 2d 1 (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, 2 S. Ct. 391, 27 L. Ed. 431 (1883); *see also Arlington Cent. Sch. Dist. Bd. of Educ. v. Murphy*, 548 U.S. 291, 299 n.1, 126 S. Ct. 2455, 165 L. Ed. 2d 526 (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

Appendix A

§ 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.⁷

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, 142 S. Ct. 2587, 213 L. Ed. 2d 896 (2022) (quoting *Davis v. Mich. Dep’t of Treasury*, 489 U.S. 803, 809, 109 S. Ct. 1500, 103 L. Ed. 2d 891 (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

7. 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*, T.C. Memo 2011-261, 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).

Appendix A

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 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.⁸ 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

8. 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).

Appendix A

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), 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, 93 S. Ct. 477, 34 L. Ed. 2d 446 (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, 127 S. Ct. 1423, 167 L. Ed. 2d 295 (2007) (quoting *Atl. Cleaners & Dyers, Inc. v. United States*,

Appendix A

286 U.S. 427, 433, 52 S. Ct. 607, 76 L. Ed. 1204 (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.⁹

9. 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 intent to evade

Appendix A

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

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.

Appendix A

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”).

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

Appendix A

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.¹⁰

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, 104 S. Ct. 756, 78 L. Ed. 2d 549 (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

10. 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, 408 U.S. App. D.C. 281 (D.C. Cir. 2014). But even were that true, *Bartenwerfer*’s more general view that a passive-voice phrase, “on its face,” “pulls the actor off the stage” would remain. 598 U.S. at 75. So too would our view of § 6501(c)(1).

Appendix A

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, 44 S. Ct. 364, 68 L. Ed. 788 (1924)).¹¹ 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 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

11. 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.

Appendix A

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. Memo 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*, T.C. Memo 2013-176, 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.

Appendix A

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).¹² The Federal Circuit, in a decision 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

12. 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 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.

Appendix A

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.¹³ All 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

13. We emphasize that Murrin’s accuracy-related penalties and interest on the deficiencies are not before us. Murrin stipulated 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, 108 S. Ct. 217, 98 L. Ed. 2d 2 (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.

Appendix A

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.

**APPENDIX B — OPINION OF THE UNITED STATES
COURT OF APPEALS FOR THE THIRD CIRCUIT,
FILED AUGUST 18, 2025**

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)

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

Appendix B

taxpayer files her return. I.R.C. § 6501(a).¹ 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

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

Appendix B

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 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

Appendix B

such tax may be begun without assessment, at any time.”² To determine whether taxpayer intent is necessary to trigger the indefinite limitations period in § 6501(c)(1), we 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, 134 S. Ct. 736, 187 L. Ed. 2d 654 (2014) (citing *Sebelius v. Cloer*, 569 U.S. 369, 376, 133 S. Ct. 1886, 185 L. Ed. 2d 1003 (2013)). “We give the words of a statute their ‘ordinary, contemporary, common meaning,’ absent an indication Congress intended them to bear some different

2. 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).

Appendix B

import.” *Williams v. Taylor*, 529 U.S. 420, 431, 120 S. Ct. 1479, 146 L. Ed. 2d 435 (2000) (quoting *Walters v. Metro. Ed. Enters., Inc.*, 519 U.S. 202, 207, 117 S. Ct. 660, 136 L. Ed. 2d 644 (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, 77 V.I. 820 (3d Cir. 2023).³ “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, 125 S. Ct. 460, 160 L. Ed. 2d 389 (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 evade tax” must attach to

3. “[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, 138 S. Ct. 2067, 201 L. Ed. 2d 490 (2018) (alteration in original) (quoting *Perrin v. United States*, 444 U.S. 37, 42, 100 S. Ct. 311, 62 L. Ed. 2d 199 (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).

Appendix B

the “false or fraudulent return.”⁴ 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.⁵ 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

4. 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.”).

5. “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.”).

Appendix B

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 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, 129 S. Ct. 1849, 173 L. Ed. 2d 785 (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, 143 S. Ct. 665, 214 L. Ed. 2d 434 (2023) (cleaned up) (quoting *Watson v. United States*, 552 U.S. 74, 81, 128 S. Ct. 579, 169 L. Ed. 2d 472 (2007)).⁶

6. “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*.

Appendix B

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, 57 V.I. 914 (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, 16 V.I. 614 (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.

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.

Appendix B

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, 143 S. Ct. 713, 215 L. Ed. 2d 1 (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, 2 S. Ct. 391, 27 L. Ed. 431 (1883); see also *Arlington Cent. Sch. Dist. Bd. of Educ. v. Murphy*, 548 U.S. 291, 299 n.1, 126 S. Ct. 2455, 165 L. Ed. 2d 526 (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.

Appendix B

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.⁷

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, 142 S. Ct. 2587, 213 L. Ed. 2d 896 (2022) (quoting *Davis v. Mich. Dep’t of Treasury*, 489 U.S. 803, 809, 109 S. Ct. 1500, 103 L. Ed. 2d 891 (1989)); *see also Davis*, 489 U.S. at 809 (“[S]tatutory

7. 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).

Appendix B

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 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 “intent 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.⁸ As a result, we find it difficult to believe

8. 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).

Appendix B

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), 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, 93 S. Ct. 477, 34 L. Ed. 2d 446 (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, 127 S. Ct. 1423, 167 L. Ed. 2d 295 (2007)

Appendix B

(quoting *Atl. Cleaners & Dyers, Inc. v. United States*, 286 U.S. 427, 433, 52 S. Ct. 607, 76 L. Ed. 1204 (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.⁹

9. 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 intent to evade

Appendix B

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

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.

Appendix B

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”).

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

Appendix B

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.¹⁰

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, 104 S. Ct. 756, 78 L. Ed. 2d 549 (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

10. 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, 408 U.S. App. D.C. 281 (D.C. Cir. 2014). But even were that true, *Bartenwerfer’s* more general view that a passive-voice phrase, “on its face,” “pulls the actor off the stage” would remain. 598 U.S. at 75. So too would our view of § 6501(c)(1).

Appendix B

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, 44 S. Ct. 364, 68 L. Ed. 788 (1924)).¹¹ 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 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

11. 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.

Appendix B

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

Appendix B

F.3d at 1350 (majority opinion).¹² The Federal Circuit, in a decision 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.”).

12. 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 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.

Appendix B

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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.¹³ All 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.

13. 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 § 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”).

**APPENDIX C — MEMORANDUM OPINION
OF THE UNITED STATES TAX COURT,
FILED JANUARY 24, 2024**

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.

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).¹ In 2019 the IRS issued a notice of deficiency to petitioner, Stephanie Murrin, with respect to returns she

1. 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.

Appendix C

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.

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

Appendix C

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 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).

*Appendix 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);² *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

2. 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.

Appendix C

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.” *Hesselink 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 *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-

Appendix C

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*.³

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

3. 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).

Appendix C

barring the collection of taxes otherwise due and unpaid are strictly construed in favor of the Government.” *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)).⁴ “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.

4. 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.

*Appendix C***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 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

Appendix C

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.

Appendix C

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.

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

Appendix C

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 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

Appendix C

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).⁵

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 &

5. 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).

Appendix C

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 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

Appendix C

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

Appendix C

to evade tax. Section 7454(a) provides 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

Appendix C

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).

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

Appendix C

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

Appendix C

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 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.⁶

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.

6. 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.

Appendix C

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 990–91.⁷

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, 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.⁸

7. 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).

8. 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

*Appendix C***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.

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.

**APPENDIX D — GRANTING OF REHEARING/
DENIAL OF REHEARING EN BANC OF THE
UNITED STATES COURT OF APPEALS FOR THE
THIRD CIRCUIT, FILED OCTOBER 17, 2025**

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.

63a

Appendix D

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

APPENDIX E – STATUTORY PROVISIONS

26 U.S.C. § 6201 – Assessment authority

(a) Authority of Secretary

The Secretary is authorized and required to make the inquiries, determinations, and assessments of all taxes (including interest, additional amounts, additions to the tax, and assessable penalties) imposed by this title, or accruing under any former internal revenue law, which have not been duly paid by stamp at the time and in the manner provided by law.

26 U.S.C. § 6501 – Limitations on assessment and collection

(a) General rule

Except as otherwise provided in this section, the amount of any tax imposed by this title shall be assessed within 3 years after the return was filed (whether or not such return was filed on or after the date prescribed) ..., and no proceeding in court without assessment for the collection of such tax shall be begun after the expiration of such period. For purposes of this chapter, the term “return” means the return required to be filed by the taxpayer (and does not include a return of any person from whom the taxpayer has received an item of income, gain, loss, deduction, or credit).

...

65a
Appendix E

(c) Exceptions

(1) False return

In 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 . . .

(e) Substantial omission of items

Except as otherwise provided in subsection (c)—

(1) Income taxes

In the case of any tax imposed by subtitle A—

(A) General rule

If the taxpayer omits from gross income an amount properly includible therein and—

(i) such amount is in excess of 25 percent of the amount of gross income stated in the return, or

(ii) such amount—

(I) is attributable to one or more assets with respect to which information is required to be reported under section 6038D (or would be so required if such section were applied without regard to the dollar threshold specified in subsection (a) thereof and without regard to any exceptions provided pursuant to subsection (h)(1) thereof), and

(II) is in excess of \$5,000, the tax may be assessed, or a proceeding in court for collection of such tax may

66a

Appendix E

be begun without assessment, at any time within 6 years after the return was filed.

26 U.S.C. § 6663 – Imposition of Fraud Penalty

(a) Imposition of penalty

If any part of any underpayment of tax required to be shown on a return is due to fraud, there shall be added to the tax an amount equal to 75 percent of the portion of the underpayment which is attributable to fraud.

(b) Determination of portion attributable to fraud

If the Secretary establishes that any portion of an underpayment is attributable to fraud, the entire underpayment shall be treated as attributable to fraud, except with respect to any portion of the underpayment which the taxpayer establishes (by a preponderance of the evidence) is not attributable to fraud.

(c) Special rule for joint returns

In the case of a joint return, this section shall not apply with respect to a spouse unless some part of the underpayment is due to the fraud of such spouse.

67a

Appendix E

26 U.S.C. § 6694 – Understatement of taxpayer’s liability by tax return preparer

(b) UNDERSTATEMENT DUE TO WILLFUL OR RECKLESS CONDUCT

(1) IN GENERAL

Any tax return preparer who prepares any return or claim for refund with respect to which any part of an understatement of liability is due to a conduct described in paragraph (2) shall pay a penalty with respect to each such return or claim in an amount equal to the greater of—

(A) \$5,000, or

(B) 75 percent of the income derived (or to be derived) by the tax return preparer with respect to the return or claim.

(2) WILLFUL OR RECKLESS CONDUCT

Conduct described in this paragraph is conduct by the tax return preparer which is—

(A) a willful attempt in any manner to understate the liability for tax on the return or claim, or

(B) a reckless or intentional disregard of rules or regulations.

(3) REDUCTION IN PENALTY

The amount of any penalty payable by any person by reason of this subsection for

Appendix E

any return or claim for refund shall be reduced by the amount of the penalty paid by such person by reason of subsection (a).

26 U.S.C. § 6701 – Penalties for aiding and abetting understatement of tax liability

(A) IMPOSITION OF PENALTY

Any person—

(1) who aids or assists in, procures, or advises with respect to, the preparation or presentation of any portion of a return, affidavit, claim, or other document,

(2) who knows (or has reason to believe) that such portion will be used in connection with any material matter arising under the internal revenue laws, and

(3) who knows that such portion (if so used) would result in an understatement of the liability for tax of another person, shall pay a penalty with respect to each such document in the amount determined under subsection (b).

26 U.S.C. § 7454 - Burden of proof in fraud, foundation manager, and transferee cases

(a) Fraud

In 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.

(b) Foundation managers

In any proceeding involving the issue whether a foundation manager (as defined in section 4946(b)) has “knowingly” participated in an act of self-dealing (within the meaning of section 4941), participated in an investment which jeopardizes the carrying out of exempt purposes (within the meaning of section 4944), or agreed to the making of a taxable expenditure (within the meaning of section 4945), or whether the trustee of a trust described in section 501(c)(21) has “knowingly” participated in an act of self-dealing (within the meaning of section 4951) or agreed to the making of a taxable expenditure (within the meaning of section 4952), or whether an organization manager (as defined in section 4955(f)(2)) has “knowingly” agreed to the making of a political expenditure (within the meaning of section 4955), or whether an organization manager (as defined in section 4912(d)(2)) has “knowingly” agreed to the making of disqualifying lobbying expenditures within the meaning of section 4912(b), or whether an organization manager (as defined in section 4958(f)(2)) has “knowingly” participated in an excess benefit transaction (as defined in section 4958(c)), the burden of proof in respect of such issue shall be upon the Secretary.

26 U.S.C. § 7701 – Definitions

(a) When used in this title, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof—

(11) Secretary of the Treasury and Secretary

(A) Secretary of the Treasury

The term “Secretary of the Treasury” means the Secretary of the Treasury, personally, and shall not include any delegate of his.

(B) Secretary

The term “Secretary” means the Secretary of the Treasury or his delegate.

(36) Tax return preparer

(A) In general

The term “tax return preparer” means any person who prepares for compensation, or who employs one or more persons to prepare for compensation, any return of tax imposed by this title or any claim for refund of tax imposed by this title. For purposes of the preceding sentence, the preparation of a substantial portion of a return or claim for refund shall be treated as if it were the preparation of such return or claim for refund.

(B) Exceptions

A person shall not be a “tax return preparer” merely because such person—

(i) furnishes typing, reproducing, or other mechanical assistance,

Appendix E

(ii) prepares a return or claim for refund of the employer (or of an officer or employee of the employer) by whom he is regularly and continuously employed,

(iii) prepares as a fiduciary a return or claim for refund for any person, or

(iv) prepares a claim for refund for a taxpayer in response to any notice of deficiency issued to such taxpayer or in response to any waiver of restriction after the commencement of an audit of such taxpayer or another taxpayer if a determination in such audit of such other taxpayer directly or indirectly affects the tax liability of such taxpayer.

28 U.S.C. § 1254 - Courts of appeals; certiorari; certified questions

Cases in the courts of appeals may be reviewed by the Supreme Court by the following methods:

(1) By writ of certiorari granted upon the petition of any party to any civil or criminal case, before or after rendition of judgment or decree;

(2) By certification at any time by a court of appeals of any question of law in any civil or criminal case as to which instructions are desired, and upon such certification the Supreme Court may give binding instructions or require the entire record to be sent up for decision of the entire matter in controversy.

Appendix E

28 U.S.C. § 1295 - Jurisdiction of the United States Court of Appeals for the Federal Circuit

(a) The United States Court of Appeals for the Federal Circuit shall have exclusive jurisdiction—

(3) of an appeal from a final decision of the United States Court of Federal Claims;

28 U.S.C. § 1346 - United States as defendant

(a) The district courts shall have original jurisdiction, concurrent with the United States Court of Federal Claims, of:

(1) Any civil action against the United States for the recovery of any internal-revenue tax alleged to have been erroneously or illegally assessed or collected, or any penalty claimed to have been collected without authority or any sum alleged to have been excessive or in any manner wrongfully collected under the internal-revenue laws;

~Revenue Act of 1918, Pub. L. No. 54-254, 40 Stat. 1057

(b) As soon as practicable after the return is filed, the Commissioner shall examine it. If it then appears that the correct amount of the tax is greater or less than that shown in the return, the installments shall be recomputed. If the amount already paid exceeds that which should have been paid on the basis of the installments as recomputed, the excess so paid shall be credited against the subsequent installments; and

Appendix E

if the amount already paid exceeds the correct amount of the tax, the excess shall be credited or refunded to the taxpayer in accordance with the provisions of section 252.

If the amount already paid is less than that which should have been paid, the difference shall, to the extent not covered by any credits then due to the taxpayer under section 252, be paid upon notice and demand by the collector. 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 intend to defraud, there shall be added as part of the tax 5 per centum of the total amount of the deficiency, plus interest at the rate of 1 per centum per month on the amount of the deficiency of each installment from the time the installment was due.

If the understatement is false or fraudulent with the intent to evade tax, then, in lieu of the penalty provided by section 3176 of the Revised Statutes, as amended, for false or fraudulent returns willfully made, but in addition to other penalties provided by law for false or fraudulent returns, there shall be added as part of the tax 50 per centum of the amount of the deficiency.

...

(d) Except in the case of false or fraudulent returns with intent to evade tax, the amount of tax due under any return shall be determined and assessed by the Commissioner within five years after the return

74a

Appendix E

was due or was made, and no suit or proceeding for the collection of any tax shall be begun after the expiration of five years after the date when the return was due or was made. In the case of such false or fraudulent returns, the amount of tax due may be determined at any time after the return is filed, and the tax may be collected at any time after it becomes due.