

Sub Laro

UNITED STATES TAX COURT

WASHINGTON, DC 20217

JORGE A. PAGAN & EDNA V. PAGAN, )

Petitioners )

v. )

COMMISSIONER OF INTERNAL REVENUE, )

Respondent )



Docket No. 27994-14.

**ORDER**

Pursuant to Rule 152(b), Tax Court Rules of Practice and Procedure, it is

ORDERED that the Clerk of the Court shall transmit herewith to petitioners and to respondent a copy of the pages of the transcript of the trial in the above case before Judge David Laro at Los Angeles, California, containing his oral findings of fact and opinion rendered at the trial session at which the case was heard.

In accordance with the oral findings of fact and opinion, a decision will be entered for respondent.

**(Signed) David Laro  
Judge**

Dated: Washington, D.C.  
January 21, 2016

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1 Bench Opinion by Judge David Laro  
2 December 18, 2015  
3 Jorge A. Pagan and Edna V. Pagan  
4 Docket No. 27994-14

5 THE COURT: The Court has decided to render  
6 Oral Findings of Fact and Opinion in this case, and  
7 the following represents the Court's oral findings of  
8 fact and opinion. The Oral Findings of Fact and  
9 Opinion shall not be relied upon as precedent in any  
10 other case. This bench opinion is made pursuant to  
11 the authority granted by Section 7459(b) and Rule  
12 152. Unless otherwise indicated, section references  
13 are to the Internal Revenue Code, and ~~the~~ rule  
14 references are to the Tax Court Rules of Practice and  
15 Procedure. The dollar amounts are rounded to the  
16 nearest dollar.

17 In a notice of deficiency mailed on  
18 September 15, 2014, respondent adjusted petitioners'  
19 taxable income for ~~the~~ 2012 tax year to reflect  
20 taxable previously unreported taxable interest income  
21 in the amount of \$86,~~00~~, an overpaid mortgage  
22 interest refund in the amount of \$98,~~00~~, and Social  
23 Security income in the amount of \$19,045.  
24 Petitioners timely petitioned this Court to challenge  
25 those determinations. At trial, petitioners conceded

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1 that they are liable for the unreported interest  
2 income and overpaid mortgage interest refund. The  
3 sole issue we decide is whether petitioners should  
4 have reported ~~their~~ social security benefits received  
5 during 2012 on their tax return.

### Background

7 At trial on December 14, 2015, the parties  
8 file<sup>d</sup> a stipulation of facts with attached exhibits,  
9 the facts of which are incorporated herein by this  
10 reference. Petitioners were married and timely filed  
11 their joint Form 1040, U.S. Individual Income Tax  
12 Return for tax year 2012. At the time of filing the  
13 petition, petitioners resided in Houston, Texas.

14 During 2012, petitioner Edna V. Pagan (Mrs.  
15 Pagan) received Social Security benefits payments in  
16 the amount of \$3,540 and workers' compensation  
17 payments in the amount of \$22,406. The workers'  
18 compensation payments were a direct offset to Mrs.  
19 Pagan's social security benefits. Petitioners did  
20 not report the \$22,406 of the workers' compensation  
21 payments on their 2012 tax return because they  
22 believed that amount to be non-taxable. Petitioners  
23 did report \$3,540 in social security benefits.

### Discussion

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25 Workers' compensation is generally

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1   excludable from a taxpayer's gross income.  
2   Sec. 104(a)(1). In contrast, Social Security  
3   benefits, including Social Security disability  
4   benefits, may be includable in a taxpayer's gross  
5   income. Sec. 86. Section 86 defines such benefits  
6   as any amount receivable by the taxpayer by reason of  
7   entitlement to a monthly benefit under the Social  
8   Security Act. Sec. 86(d)(1)(A). Taxable Social  
9   Security benefits include the amount of the workers'  
10   compensation payment to the extent that they reduce  
11   or offset the total social security benefits to which  
12   the recipient is entitled. Sec. 86(d)(3); see  
13   Mikalonis v. Commissioner, T.C. Memo. 2000-281;  
14   Willis v. Commissioner, T.C. Memo. 1997-290.

15                Petitioners argue that they never actually  
16   received the \$22,406 of the workers' compensation  
17   offset. At trial, petitioners also introduced a  
18   decision entered by this Court pursuant to the  
19   settlement agreement between the parties in case with  
20   the Docket No. 24854-08S. Petitioners argue that  
21   this prior case was based on similar facts, but the  
22   IRS agreed to a settlement. As such, we are not  
23   bound by the decision entered in that case.

24                As the Supreme Court of the United States  
25   has instructed, we are dutybound to apply the law as

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1 written by Congress to the facts as they occurred.  
2 See, Commissioner v. National Alfalfa Dehydrating &  
3 Milling Co., 417 U.S. 134, 148-149 (1974). Because  
4 Mrs. Pagan's Social Security benefits were reduced by  
5 the amount of workers' compensation benefits  
6 received, that offset amount is treated as a Social  
7 Security benefit and is, therefore, taxable. See  
8 Sec. 86(d)(3).

9           Accordingly, we sustain respondent's  
10 determination that the \$19,045 of the workers'  
11 compensation offset, which represents 85% of the  
12 total workers' compensation offset for 2012, is  
13 includable in petitioners' taxable income for 2012  
14 under Section 86(d)(3) as a social security benefit.

15           We have considered all of the arguments  
16 made by petitioners, and, to the extent that we have  
17 not specifically addressed them, we conclude that  
18 they do not support a result contrary to that reached  
19 herein.

20           To reflect the foregoing, the decision will  
21 be entered for respondent.

22           This concludes the Court's oral findings of  
23 fact and opinion in this case.

24           (Whereupon, at 9:30 a.m., the above-  
25 entitled matter was concluded.)