

Pursuant to Tax Court Rule 50(f), orders shall not be treated as precedent, except as otherwise provided.

UNITED STATES TAX COURT
WASHINGTON, DC 20217 PA

RENEE VENTO, ET AL.,)		
)		
Petitioner(s),)		
)		
v.)	Docket No. 992-06,	993-06,
)	1168-06.	
COMMISSIONER OF INTERNAL REVENUE,)		
)		
Respondent)		

ORDER TO SHOW CAUSE

In a prior report on these consolidated cases, we denied petitioners' claims for credits under section 901¹ for payments they made to the Virgin Islands Bureau of Internal Revenue (VIBIR) for their 2001 taxable years and for amounts "covered into" the Virgin Islands Treasury under section 7654 (including estimated payments petitioners made to the U.S. Treasury for 2001, amounts withheld from wages in that year, and credits carried forward to 2001 from prior years). Vento v. Commissioner, 147 T.C. 198 (2016). In their posttrial briefs, the parties agreed that, as a result of prior concessions and settlements, the creditability of the amounts in issue under section 901 was the sole issue remaining for decision.

After we issued our opinion, the parties submitted competing calculations under Rule 155. The deficiencies respondent computed equaled the amounts to which the parties had agreed in their pretrial memoranda (subject to a \$4 difference in the case of one of the petitioners). Petitioners sought to reduce their deficiencies by taking into account the effect of a deduction under section 164 of the amounts that they or the U.S. Treasury paid to the VIBIR. After we pointed out to petitioners that they had not raised in their petitions the deductibility of the amounts in issue under section 164 and that Rule 155 does not allow for consideration of "any new issues", petitioners filed motions for leave to amend

¹All section references are to the Internal Revenue Code in effect for 2001, and all Rule references are to the Tax Court Rules of Practice and Procedure.

their petitions. In those motions, to which respondent objects, petitioners claim entitlement to deductions under section 164 for only those amounts that they paid directly to the VIBIR (with their 2001 Virgin Islands tax returns or requests for extensions to file those returns). The amounts covered into the Virgin Islands, they claim, should be credited dollar-for-dollar against their U.S. tax liabilities for 2001. See secs. 31(a)(1) (allowing a credit against the tax imposed by subtitle A for amounts withheld from wages under chapter 24), 6315 (treating estimated payments as "payments" of income taxes), 6402(b) (providing for the "credit elect" that allows a taxpayer to treat an overpayment for one year as an estimated tax payment for the following year).

As a result of a teleconference we held with the parties' counsel on February 22, 2018, we understand petitioners to concede that, because they are cash method taxpayers and made their payments to the VIBIR in 2002, they are not entitled to deduct those amounts in computing their U.S. tax liability for 2001 (without regard to whether those amounts would otherwise be deductible under section 164). Further, we understand petitioners to concede that the amounts covered into the Virgin Islands are irrelevant to the computation of their deficiencies, see sec. 6211(a), and that, because the payments for which they claim credit were made no later than April 15, 2002, more than three years before the mailing of the notices of deficiency in these cases, we lack the jurisdiction under section 6512(b) to consider whether those amounts gave rise to an overpayment that must be credited or refunded to petitioners.

On the basis of petitioners' concessions, it is

ORDERED that petitioners' motions for leave to file amended petitions are denied. It is further

ORDERED that petitioners shall show cause, on or before March 22, 2018, why the Court should not enter decisions in these cases on the basis of respondent's Rule 155 computations.

**(Signed) James S. Halpern
Judge**

Dated: Washington, D.C.
February 23, 2018