

UNITED STATES TAX COURT  
WASHINGTON, DC 20217

JANE E. ZDUNEK,	)	
	)	
Petitioner,	)	
	)	
v.	)	Docket No. 27966-10S.
	)	
COMMISSIONER OF INTERNAL REVENUE,	)	
	)	
Respondent	)	
	)	

**ORDER**

On August 20, 2012, petitioner filed a Motion To Continue. The essence of petitioner’s rationale for a continuance appears in the penultimate numbered paragraph of the motion:

The Petitioner will provide documentation to support the position that the correspondence examination did not properly handle the audit prior to the notice of deficiency and that the case could have been resolved at the examiner’s level with no adjustment to the interest expense and therefore no need to take the matter to Tax Court.

Therefore, according to petitioner, she needs additional time to research respondent’s Motion In Limine, filed August 7, 2012 that asks the Court “not [to] permit the introduction of evidence relating to the communications between petitioner and respondent prior to the issuance of the notice of deficiency on the grounds that such evidence is neither relevant nor material and is an attempt by petitioner to go behind the notice of deficiency.”

By Order dated August 9, 2012, the Court calendared respondent’s aforementioned Motion In Limine for hearing on August 29, 2012, in Washington, D.C. The Court chose to calendar the motion for hearing, rather than act on it forthwith, because “petitioner has not presently sought to introduce any evidence”. However, the Court took the opportunity of providing “guidance to the parties regarding what the Court will admit into evidence at trial if this case is not sooner settled by the parties.” We repeat that guidance:

The instant case is one for redetermination of deficiency and penalty for the taxable (calendar) year 2007 determined by respondent in a notice of deficiency dated September 13, 2010. A review of the deficiency notice reveals that the deficiency is based on the disallowance of itemized deductions, specifically home interest expense of \$47,477. The explanation in the deficiency notice reads as follows. “Since you did not establish that the amount shown was (a) interest expense, and (b) paid, the amount is not deductible.” Thus, unless the parties settle this case, the issue at trial for decision by the Court will be whether the amount claimed was interest expenses and, if so, whether it was paid. The issue will be decided based on the relevant facts as adduced at trial and the applicable law, i.e., Internal Revenue Code, applicable Treasury regulations, and prior judicial cases. Events that occurred during the administrative stage of this case are generally irrelevant, as such events have nothing to do whether petitioner is entitled to the

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deduction claimed. Further, the Court will decide the disputed issue de novo, i.e., without regard to a prior administrative proceeding, if any. [Emphasis added.]

In short, the Commissioner's position is that expressed in the notice of deficiency. That is the point of departure at trial.

Finally, in the final paragraph of her motion petitioner identifies a temporary address "for the next few weeks" and asks that service also be made on her at that address, as well as on her at her address of record. The Court's records show that petitioner has consented to electronic service, so her physical address should make no difference. However, in case petitioner lacks computer access at her temporary address, the Clerk of the Court shall be instructed, on this occasion, to serve petitioner both electronically and by mail at her temporary address.

Premises considered, it is hereby

ORDERED that petitioner's Motion To Continue, filed August 20, 2012, is calendared for hearing at the Court's motion session scheduled to commence at 10:00 a.m. on Wednesday, August 29, 2012, in United States Tax Court, Third Floor, 400 Second Street, N.W., Washington D.C. 20217. It is further

ORDERED that in addition to regular service of this Order on petitioner, the Clerk of the Court shall also serve a copy on her by mail addressed to her at "91 Meadow Ridge Drive, Shepherdstown, WV 25443".

This Order constitutes official notice of its contents and further notice will not be provided.

**(Signed) Robert N. Armen, Jr.  
Special Trial Judge**

Dated: Washington, D.C.  
August 21, 2012