

**UNITED STATES TAX COURT  
WASHINGTON, DC 20217**

OVID SACHI & HELEN SACHI,	)	
	)	<b>CZ</b>
Petitioners,	)	
	)	
v.	)	Docket No. 12032-17.
	)	
COMMISSIONER OF INTERNAL REVENUE,	)	
	)	
Respondent	)	

**ORDER AND DECISION**

The Commissioner issued a notice of deficiency to Mr. and Mrs. Sachi for 2015. In that notice, the Commissioner increased the Sachis' tax by the amount of premium assistance credits paid on the Sachis' behalf for which he determined they were ineligible. The Sachis filed a petition seeking redetermination of the deficiency. Before us now is the Commissioner's motion for summary judgment under Rule 121.<sup>1</sup> The Sachis did not respond to the Commissioner's motion.

The Sachis received premium assistance credits totaling \$16,808 for 2015. Their eligibility for those credits was predicated on their income falling below the eligibility threshold of 400% of the federal poverty line. Their income for 2015 was over that limit, thus rendering them ineligible for the credits. Because we find that there is no genuine dispute as to any material fact, we will grant the Commissioner's motion.

**Background**

Mr. and Mrs. Sachi purchased health insurance through the Health Insurance Marketplace in 2015. The Sachis received advance payments of premium tax credits totaling \$16,808, which were paid to Blue Cross and Blue Shield of Florida

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<sup>1</sup> Unless otherwise indicated, all Rule references are to the Tax Court Rules of Practice and Procedure, and all section references are to the Internal Revenue Code in effect for the years at issue. All monetary amounts are rounded to the nearest dollar.

on their behalf. The amounts paid included \$1,342 per month for January and February, \$1,005 per month for March through June, and \$1,684 per month for July through December.

Mr. and Mrs. Sachi filed a joint Federal income tax return for 2015. They attached a Form 8962, Premium Tax Credit (PTC), on which they reported a family of four, an adjusted gross income of \$111,737, and \$6,704 of advance premium tax credit payments made on their behalf. The advance premium tax credit payments represented the monthly amounts paid on the Sachis' behalf for January through June, only. The Sachis did not report advance payments of premium tax credits that were made on their behalf for July through December of 2015. On that same form, they calculated their household income to be in excess of 400% of the poverty line and checked the box stating that they were not eligible to receive the premium tax credit. They included the \$6,704 of reported advance payments of premium tax credit on line 46 of their income tax return as the amount of excess advance premium tax credit repayment.

On March 21, 2017, the Commissioner issued a notice of deficiency to Mr. and Mrs. Sachi for 2015. In the notice of deficiency, the Commissioner increased the amount of advance premium tax credits payments to include the amounts paid on the Sachis' behalf for July to December, an increase of \$10,104.<sup>2</sup> The effect of that inclusion was to increase the Sachis' tax liability in the same amount.

While residing in Florida, Mr. and Mrs. Sachi filed a petition disputing the Commissioner's deficiency determination. In their petition, the Sachis express their frustrations with the application process and the amount of correspondence from the insurer, the Health Insurance Marketplace, and the Internal Revenue Service. They did not dispute the material facts: the amount of advance premium tax credits payments paid on their behalf and the amount of their adjusted gross income.

On October 11, 2018, the Commissioner filed a motion for summary judgment arguing that there is no dispute over any material fact. The Court ordered the Sachis to respond by November 9, 2018, but they did not do so.

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<sup>2</sup> The Commissioner also determined an accuracy-related penalty, but since then, he has conceded that penalty.

### Analysis

Under Rule 121(a), either party may move for summary judgment regarding all or any part of the legal issues in controversy. The purpose of summary judgment is to expedite litigation and avoid unnecessary and time-consuming trials.<sup>3</sup> We may grant summary judgment only if there is no genuine dispute as to any material fact.<sup>4</sup> The party moving for summary judgment bears the burden of demonstrating that there is no genuine dispute of any material fact.<sup>5</sup> In deciding whether to grant summary judgment, the factual materials and the inferences drawn from them must be considered in the light most favorable to the nonmoving party.<sup>6</sup> Under Rule 121(d), when a motion for summary judgment is made and properly supported, the nonmoving party may not rest on mere allegations or denials, but must set forth specific facts showing that there is a genuine dispute for trial.

The premium assistance tax credit is available to households with incomes between 100% and 400% of the Federal poverty line.<sup>7</sup> During 2015 the Federal poverty line was \$23,850 for a four-person household in Florida,<sup>8</sup> and 400% of the Federal poverty line was \$95,400. The ACA allows for the advance payment of the premium assistance tax credit “to reduce the premiums payable by individuals eligible for \* \* \* [premium assistance tax credits]”.<sup>9</sup> The “advance premium tax credits” are paid directly to the insurer in the form of monthly payments based on advance eligibility determinations.<sup>10</sup>

A taxpayer who receives advance premium assistance credits must reconcile those credits against the amount for which he or she is eligible.<sup>11</sup> When a taxpayer is entitled to a larger credit than the amount already paid to an insurer on his or her

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<sup>3</sup> Fla. Peach Corp. v. Commissioner, 90 T.C. 678, 681 (1988).

<sup>4</sup> Rule 121(b); Naftel v. Commissioner, 85 T.C. 527, 529 (1985).

<sup>5</sup> Sundstrand Corp. v. Commissioner, 98 T.C. 518, 520 (1992), aff'd, 17 F.3d 965 (7th Cir. 1994).

<sup>6</sup> FPL Group, Inc. v. Commissioner, 115 T.C. 554, 559 (2000).

<sup>7</sup> See sec. 36B(b)(3)(A)(i); See McGuire v. Commissioner, 149 T.C. \_\_\_, \_\_\_ (slip op. at 8) (Aug. 28, 2017) for a full discussion of eligibility requirements.

<sup>8</sup> 79 Fed. Reg. 3593 (Jan. 22, 2014).

<sup>9</sup> Patient Protection and Affordable Care Act (ACA), Pub. L. No. 111-148, sec. 1412(a)(3), 124 Stat. at 232 (2010).

<sup>10</sup> ACA sec. 1412(c)(2)(A), 124 Stat. at 232.

<sup>11</sup> See McGuire v. Commissioner, 149 T.C. at \_\_\_ (slip op. at 11-12).

behalf, the taxpayer may claim the remaining amount of the credit when filing his or her return. If the amount of the advance premium tax credit is more than the amount to which a taxpayer is ultimately entitled, the taxpayer owes the excess credit back to the Government and it is reflected as an increase in tax.<sup>12</sup>

The Sachis reported household income for 2015 of \$111,737, which is greater than 400% of the Federal poverty line for a family of four in Florida. As a result, they are not entitled to any of the advance premium tax credit that was paid on their behalf. Excess advance premium tax credits are treated as an increase in tax. Accordingly, it is

ORDERED that the Commissioner's motion for summary judgment, filed October 11, 2018, is granted. It is further

ORDERED and DECIDED that there is a deficiency in income tax due from petitioners for the taxable year 2014 in the amount of \$10,104.00; and that there is no penalty due from petitioners for the taxable year 2014, under the provisions of I.R.C. section 6662(a).

**(Signed) Ronald L. Buch**  
**Judge**

Entered: **NOV 21 2018**

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<sup>12</sup> Sec. 36B(f)(2).