United States Tax Court

T.C. Memo. 2026-93

ALOKE PAL,
Petitioner

v.

COMMISSIONER OF INTERNAL REVENUE,
Respondent

Docket No. 16983-24. Filed September 24, 2026.

Aloke Pal, pro se.

Christopher S. Kippes, *Vladislav M. Rozenzhak*, and *Jordan E. Baumer*, for respondent.

MEMORANDUM FINDINGS OF FACT AND OPINION

LAUBER, *Judge*: With respect to petitioner's Federal income tax for 2021, the Internal Revenue Service (IRS or respondent) determined a deficiency of $80,292, including a 10% additional tax under section 72(t),[1] and an accuracy-related penalty under section 6662(a). The principal question presented is whether petitioner owes tax on retirement distributions he received during 2021. He urges that we answer this question in the negative, asserting that no transfers were made from his individual retirement account (IRA) to his brokerage or checking accounts. Finding no factual support for petitioner's position, we will sustain respondent's deficiency and penalty determinations.

[1] Unless otherwise indicated, statutory references are to the Internal Revenue Code, Title 26 U.S.C. (Code), in effect at all relevant times, regulation references are to the Code of Federal Regulations, Title 26 (Treas. Reg.), in effect at all relevant times, and Rule references are to the Tax Court Rules of Practice and Procedure. We round all monetary amounts to the nearest dollar.

Served 09/24/26

[*2] FINDINGS OF FACT

The following facts are derived from the parties' pleadings, documentary Exhibits admitted into evidence at trial, and petitioner's trial testimony. Petitioner resided in California when his Petition was timely filed.

Petitioner has had a successful career as an engineer. He was formerly employed by Boeing Co. and Modine Manufacturing (Modine). He later founded Urooni, an aerospace startup, and is currently employed as its chief engineer.

While employed by Boeing and Modine, petitioner participated in their retirement plans. Upon severing his employment with them he rolled his retirement plan assets into an IRA with E*Trade (E*Trade IRA). His E*Trade IRA originally had an account number ending in 1601.

During 2021 petitioner also had a regular (non-retirement) brokerage account with E*Trade. It had an account number ending in 1455 (E*Trade brokerage account). Petitioner likewise had a checking account with Wells Fargo Bank with an account number ending in 0584 (Wells Fargo account). During 2021 petitioner executed hundreds of trades in his E*Trade IRA, and he made frequent transfers from the IRA into his E*Trade brokerage account and his Wells Fargo account.

During 2021 petitioner received distributions totaling $229,857 from his E*Trade IRA via transfers into his E*Trade brokerage account and his Wells Fargo account. Morgan Stanley Domestic Holdings/E*Trade Securities (Morgan Stanley) reported those payments, to him and to the IRS, on Form 1099–R, Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc. In box 7 of the Form 1099–R, captioned "Distribution code(s)," Morgan Stanley entered Distribution Code 1, indicating an "[e]arly distribution, no known exception." The instructions to Form 1099–R direct that Code 1 should be used "if the participant has not reached age 59 1/2."

The Form 1099–R referenced above showed that the distributions were made from an account number ending in 1601. That corresponds to the account number of petitioner's E*Trade IRA during 2021. In 2023, apparently in connection with E*Trade's merger into Morgan Stanley, his E*Trade IRA was given a new account number ending in 2205. Separately, Morgan Stanley issued petitioner a consolidated Form 1099 for his E*Trade brokerage account.

[*3] Petitioner timely filed with his spouse a joint Form 1040, U.S. Individual Income Tax Return, for 2021. They reported adjusted gross income of $174,432 (consisting chiefly of wages of petitioner's wife), a tax liability of $20,528, and an overpayment of $4,799. They did not report any retirement distributions.

The IRS selected this return for examination and, on August 2, 2024, issued petitioner and his spouse a timely Notice of Deficiency. On the basis of the Form 1099–R the IRS determined that petitioner had received but failed to report $229,856 of taxable retirement distributions, resulting in a deficiency of $80,292.[2] The IRS included in that sum an additional tax of $22,986 under section 72(t), which imposes a 10% additional tax on early distributions from qualified retirement plans, and an accuracy-related penalty of $16,058 under section 6662. The IRS secured managerial approval of the penalty on May 20, 2024, when the revenue agent's manager noted in the examination file that "manager approves the assertion of the substantial understatement penalty being applied."

Petitioner timely petitioned this Court for redetermination. In his Petition he asserted that "E*Trade has used all my 401k and pension [and has] reported false distribution[s] to IRS," stating that he "want[s] his 401k and pension back." He asserted that he was a "victim of systematic hate/discrimination" because he had filed whistleblower claims regarding Boeing's "737 Max Program." He alleged that he had not received a Form 1099–R reporting any distributions for 2021 and that (in any event) he "did not recognize ACCT number on the 1099–R."

On August 26, 2025, respondent issued a subpoena to Morgan Stanley seeking records relating to petitioner's E*Trade IRA and E*Trade brokerage account. Morgan Stanley complied and produced voluminous documents to respondent. Included with the documents was a letter noting the 2023 change in the account number for petitioner's E*Trade IRA (originally ending in 1601, but now ending in 2205).

The documents produced by Morgan Stanley showed numerous transfers from petitioner's E*Trade IRA to his E*Trade brokerage account and to his Wells Fargo account. Respondent sought documents from Wells Fargo relating to the latter transfers. On April 10, 2026,

[2] The IRS also adjusted a child tax credit claimed on the 2021 tax return. Petitioner assigned no error to this adjustment and we accordingly discuss it no further.

[*4] Wells Fargo produced 2021 account statements for petitioner's Wells Fargo checking account.

On April 24, 2026, respondent filed under Rule 91(f) a Motion for Order to Show Cause Why Proposed Facts and Evidence Should Not be Accepted as Established (Rule 91(f) Motion). Respondent appended to his Rule 91(f) Motion a proposed stipulation of facts, to which were attached the documents produced by Morgan Stanley and Wells Fargo. Petitioner filed a Response to the Motion two days later. Contrary to our Rules he did not identify in his Response the specific numbered paragraphs or Exhibits as to which he alleged a dispute. *See* Rule 91(f)(2). Rather, he simply asserted, without justification, that "respondent's claims of evidence are patently incredible."

We tried this case remotely on June 9, 2026, via Zoomgov. During trial we heard argument on respondent's Rule 91(f) Motion. By Order served June 11, 2026, we granted that Motion and admitted into evidence the documents attached to respondent's proposed stipulation of facts, including the documents produced by Morgan Stanley and Wells Fargo.

OPINION

I. *Burden of Proof*

The Commissioner's determinations in a notice of deficiency are generally presumed correct, and the taxpayer bears the burden of proving them erroneous. *See* Rule 142(a); *Welch v. Helvering*, 290 U.S. 111, 115 (1933). Section 7491(a)(1) provides that the burden of proof may shift to the Commissioner if the taxpayer "introduces credible evidence with respect to [a relevant] factual issue." But that section applies only if the taxpayer (among other things) "introduces credible evidence" and "has maintained all records required under this title." *See* § 7491(a)(1), (2)(B). Petitioner could not plausibly contend that section 7491(a) applies to shift the burden of proof.

II. *Unreported Income*

The Code provides that "gross income means all income from whatever source derived," § 61(a), including distributions from a qualified retirement plan, §§ 61(a)(8), 72(a)(1), 408(d)(1). Such distributions are taxable in full unless the taxpayer has acquired a basis in his account (for example) by making nondeductible contributions to an IRA.

[*5] *See* §§ 72(b), (e)(6), 408(d)(2); *Campbell v. Commissioner*, 108 T.C. 54, 66–67 (1997).

In cases of unreported income, the Commissioner must establish an evidentiary foundation connecting the taxpayer with the income-producing activity, *see Llorente v. Commissioner*, 649 F.2d 152, 156 (2d Cir. 1981), *aff'g in part, rev'g and remanding in part* 74 T.C. 260 (1980), or demonstrate that the taxpayer actually received income, *Edwards v. Commissioner*, 680 F.2d 1268, 1270–71 (9th Cir. 1982) (per curiam). Information supplied to the IRS by third-party payors on Forms 1099 is sufficient to meet this burden. *See Hardy v. Commissioner*, 181 F.3d 1002, 1004–05 (9th Cir. 1999), *aff'g* T.C. Memo. 1997-97. "Once the Commissioner makes the required threshold showing, the burden shifts to the taxpayer to prove by a preponderance of the evidence that the Commissioner's determinations are arbitrary or erroneous." *Walquist v. Commissioner*, 152 T.C. 61, 67–68 (2019) (citing *Helvering v. Taylor*, 293 U.S. 507, 515 (1935)); *see Texasgulf, Inc., & Subs. v. Commissioner*, 172 F.3d 209, 214 (2d Cir. 1999), *aff'g* 107 T.C. 51 (1996).[3]

The documentary record establishes that petitioner during 2021 made transfers from his E*Trade IRA to two separate accounts: his E*Trade brokerage account and his Wells Fargo account. Some of those transfers were made in cash and others consisted of stock. The transfers were as follows:

*Distributions from E*Trade IRA*	*Amount*
Cash transfers to Wells Fargo account	$37,460
Cash transfers to E*Trade brokerage account	120,013
Stock transfers to E*Trade brokerage account	72,384
TOTAL	**$229,857**[4]

[3] The IRS may not rely solely on a third-party report of income, such as a Form 1099, if the taxpayer raises "a reasonable dispute" concerning the accuracy of the report. *See* § 6201(d). Petitioner has not done so. He has supplied no evidence to support his wild assertions that E*Trade stole his money and "reported false distribution[s] to IRS." The documentary record confirms the accuracy of Morgan Stanley's reporting and clearly shows that petitioner's assertions are baseless.

[4] The Form 1099–R issued by Morgan Stanley lists the total distributions as $229,856.80, which we have rounded up to $229,857. The Notice of Deficiency and accompanying Form 4549, Report of Income Tax Examination Changes, rounded down rather than up and determined unreported income of $229,856.

[*6] A. *Cash Transfers to Wells Fargo Account*

Petitioner during 2021 made cash transfers totaling $37,460 from his E*Trade IRA to his Wells Fargo checking account. The first transfer, of $35,000, occurred on January 26, 2021, and posted to his Wells Fargo account the next day. Petitioner made additional distributions of $1,460 and $1,000 from his E*Trade IRA on August 13 and October 5, 2021, respectively. Each of those transfers posted to his Wells Fargo account on the same or the subsequent business day.

Petitioner concedes that these transfers were made to his Wells Fargo checking account but insists that the source of the transfers is unclear. We disagree: The E*Trade IRA statements describe each transfer as an "ACH withdrawal," and the Wells Fargo statements correspondingly describe the transfers as "E*Trade ACH . . . 1601." As noted earlier, petitioner's E*Trade IRA during 2021 had an account number ending in 1601. *See supra* p. 2.

B. *Cash Transfers to E*Trade Brokerage Account*

Petitioner made cash transfers totaling $120,013 from his E*Trade IRA to his E*Trade brokerage account. On January 26, 2021, he made transfers of $55,000 and $65,000, and on December 23, 2021, he transferred $13. His E*Trade IRA statements describe the transfers as having been made to an account ending in 1455. As noted earlier, petitioner's E*Trade brokerage account had an account number ending in 1455. *See supra* p. 2.

C. *Stock Transfers to E*Trade Brokerage Account*

Petitioner transferred stock from his E*Trade IRA to his E*Trade brokerage account in May, November, and December 2021. The account statements for his E*Trade IRA describe all transfers as having been made to an account ending in 1455. As noted earlier, petitioner's E*Trade brokerage account had an account number ending in 1455. *See supra* p. 2. The IRS determined the value of the stock transferred by reference to the E*Trade IRA statements, which list monthly "contributions and distributions activity." The stock transfers were as follows:

- On May 25, 2021, petitioner transferred from his E*Trade IRA to his E*Trade brokerage account stock with an aggregate value of $33,266. This transfer consisted of 50 shares of Coinbase Global, 50 shares of GameStop, and 10,000 shares of India Globalization Capital.

[*7] Petitioner sold these shares within his E*Trade brokerage account in May and June 2021.

- On November 1, 2021, petitioner transferred from his E*Trade IRA to his E*Trade brokerage account stock with an aggregate value of $26,400. This transfer consisted of 500 shares of ContextLogic, 10,000 shares of India Globalization Capital, 1,000 shares of Meta Materials (Meta), and 500 shares of Tilray. Petitioner sold these shares within his E*Trade brokerage account in November and December 2021.

- On December 23, 2021, petitioner transferred from his E*Trade IRA to his E*Trade brokerage account stock with an aggregate value of $12,718. This transfer consisted of 500 shares of ContextLogic, 5,000 shares of India Globalization Capital, 725 shares of Meta, 400 shares of Tilray, and 25 shares of ZM Zoom Video Communications (Zoom). Petitioner sold his shares of India Globalization Capital and Zoom on December 23 and 31, 2021.

As noted above, petitioner sold most of the shares listed above within his E*Trade brokerage account shortly after the shares were distributed to that account. The consolidated Form 1099 issued by Morgan Stanley for the E*Trade brokerage account shows all these shares as having been sold during 2021, under the caption "Noncovered Short-Term Gains or Losses on Gross Proceeds." The total number of shares of each stock transferred align between the IRA statements and the consolidated Forms 1099.

Petitioner has the burden of proof to show that respondent's determinations of unreported income are "arbitrary or erroneous." *See supra* p. 5. He has supplied no evidence whatsoever to show that the stock transferred into his E*Trade brokerage account came from a source other than his E*Trade IRA. During trial the Court asked him where these shares could have come from, if not from his E*Trade IRA. He had no comprehensible response to that question.

Petitioner's submissions in his Posttrial Brief were not a model of clarity. His primary contention, as originally urged in his Petition, was that his retirement assets disappeared or were fraudulently taken by E*Trade. He did not supply an iota of evidence to support those assertions.

At trial petitioner acknowledged that he "had two accounts with E*Trade; one brokerage account [and] one IRA account"; that he "moved money back and forth"; and that he "transferred many shares through

[*8] back and forth." But he insisted that he could not identify the source of the transfers into his E*Trade brokerage account or his Wells Fargo account, asserting that he "cannot deny or confirm which account [the transfers] came from." This argument originated in his Petition, where he stated that he did "not recognize ACCT number on the 1099–R." It seems obvious to the Court that petitioner simply forgot that the account number for his E*Trade IRA changed in 2023 from an account number ending in 1601 to an account number ending in 2205.

III. *Additional Tax*

Section 72(t) imposes a 10% "additional tax" on early distributions from qualified retirement plans. An early distribution is defined as one made before "the date on which the employee attains 59 1/2." *See* § 72(t)(2)(A)(i). This additional tax does not apply if the taxpayer is older than 59 1/2 on the distribution date or if the distribution falls under one of the exceptions in section 72(t)(2). These exceptions include (but are not limited to) distributions attributable to the taxpayer's disability and those made to cover the costs of certain medical expenses and/or qualified higher education expenses. *See* § 72(t)(2).

At trial petitioner confirmed that he had not attained the age of 59 1/2 during 2021. And he does not contend that any of the other exceptions in section 72(t)(2) applies. We will accordingly sustain the IRS's determination of a $22,986 additional tax for 2021.

IV. *Penalty*

The Code imposes a 20% penalty upon the portion of any underpayment of income tax required to be shown on a return that is attributable (among other things) to any "substantial understatement of income tax." § 6662(a), (b)(2). Section 6662(d)(2) generally defines the term "understatement" as the excess of the tax required to be shown on the return over the amount shown on the return as filed.

The Commissioner generally bears the burden of production with respect to a taxpayer's liability for an accuracy-related penalty. § 7491(c). An understatement is "substantial" if it exceeds the greater of $5,000 or 10% of the tax required to be shown on the return. *See* § 6662(d)(1)(A). For 2021 petitioner reported tax of $20,528, but his correct tax was $100,420, leaving an understatement of roughly $80,000. Respondent has thus met his burden of showing a "substantial understatement of income tax."

[*9] To meet his burden of production the Commissioner must also show that he complied with the procedural requirements of section 6751(b)(1) regarding supervisory approval. That section provides that "[n]o penalty under this title shall be assessed unless the initial determination of such assessment is personally approved (in writing) by the immediate supervisor of the individual making such determination." The supervisory approval is not required to take any specific form. *See Palmolive Bldg. Invs., LLC v. Commissioner*, 152 T.C. 75, 85–86 (2019). But it generally must be in writing and be obtained no later than (1) the date on which the IRS issues the notice of deficiency or (2) the date, if earlier, on which the IRS formally communicates to the taxpayer the Examination Division's determination to assert a penalty. *See Belair Woods, LLC v. Commissioner*, 154 T.C. 1, 15 (2020).

Petitioner does not dispute that the IRS met these requirements here. The IRS secured managerial approval of the penalty on May 20, 2024, when the revenue agent's manager noted in the examination file that "manager approves the assertion of the substantial understatement penalty being applied." This approval was secured before August 2, 2024, when the IRS issued the Notice of Deficiency, which constituted the first communication of this penalty to petitioner. Respondent has thus shown timely approval in accordance with Tax Court precedent. *See ibid.*

In *Laidlaw's Harley Davidson Sales, Inc. v. Commissioner*, 29 F.4th 1066, 1074 (9th Cir. 2022), *rev'g and remanding* 154 T.C. 68 (2020), the U.S. Court of Appeals for the Ninth Circuit held that supervisory approval is timely if secured before the penalty is assessed or "before the relevant supervisor loses discretion whether to approve the penalty assessment." On May 20, 2024, the revenue agent's supervisor retained discretion to approve or disapprove assertion of the penalty because the IRS examination had not yet concluded. The approval was thus timely under relevant precedent of the Ninth Circuit, the court to which appeal of this case would generally lie. *See* § 7482(b)(1)(G); *Golsen v. Commissioner*, 54 T.C. 742, 757 (1970), *aff'd*, 445 F.2d 985 (10th Cir. 1971).

Once the Commissioner satisfies his burden of production, the taxpayer bears the burden of proving that the Commissioner's determination is incorrect or that the taxpayer has an affirmative defense such as reasonable cause. *See* § 6664(c); Rule 142(a); *Higbee v. Commissioner*, 116 T.C. 438, 448–49 (2001). We decide whether a taxpayer acted with reasonable cause and in good faith on a case-by-case basis, taking into

[*10] account all pertinent facts and circumstances. *See* Treas. Reg. § 1.6664-4(b)(1). Circumstances that may signal reasonable cause and good faith "include an honest misunderstanding of fact or law that is reasonable in light of all of the facts and circumstances, including the experience, knowledge, and education of the taxpayer." *Ibid.* But our principal consideration "is the extent of the taxpayer's effort to assess the taxpayer's proper tax liability." *Ibid.*

In his Posttrial Brief petitioner contends that the "reasonable cause" exception applies. He concedes that transfers were made into his Wells Fargo account, but he insists that he did not know where the transferred assets came from. We did not find this testimony credible. One may enjoy a large bank error in one's favor when playing Monopoly, but this rarely if ever happens in the real world. Petitioner was unable to identify any possible source for the transferred assets apart from his E*Trade IRA. He appears to have forgotten that its account number changed in 2023, but that does not constitute reasonable cause for failing to report $229,857 of retirement income.

Petitioner is an engineer who has worked in the aerospace industry for many years. It is obvious and well settled that distributions from an IRA are taxable unless a specified exception applies. § 61(a). We do not believe that petitioner actually misunderstood the tax law. But assuming arguendo that he did, we find that his misunderstanding was not "reasonable in light of all of the facts and circumstances," including his education and experience. *See* Treas. Reg. § 1.6664-4(b)(1). We therefore sustain the penalty.

To reflect the foregoing,

An appropriate order and decision will be entered.