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Tax Court: Landfill reclamation, clean-up costs under section 468 not limited to accrual-method taxpayers

The U.S. Tax Court today issued a "reviewed opinion" holding that, for purposes of landfill reclamation and closing costs, references to "taxpayer" in section 468 mean both cash-method taxpayers and accrual-method taxpayers.

The case is: *Gregory v. Commissioner,* 149 T.C. No. 2 (July 11, 2017). Read the Tax Court **opinion** [PDF 142 KB] that includes a concurring opinion.

Summary

The taxpayers incorporated their landfill business as a cash-method taxpayer, and elected S corporation status. For the years at issue (2008 and 2009), the taxpayers claimed deductions under section 468—the Code provision that allows a "taxpayer" to deduct current clean-up costs for landfills.

The IRS disallowed the claimed deductions and asserted that the term "taxpayer" in section 468 refers to a taxpayer that uses the accrual method of accounting. The issue before the Tax Court was whether the language of section 468 limits its application to accrual-method taxpayers.

The Tax Court today explained that section 468 does not define "taxpayer" and specifically does not limit the election to deduct qualified reclamation or closing costs to accrual-method taxpayers.

After examining the legislative history behind section 468, the majority noted that taxpayers involved in landfill operations must comply with numerous environmental-protection laws at the federal, state, and local level and that these costs can be large. Thus, section 468 is intended to lessen the burden by helping to match income and expenses.

The Tax Court closed its opinion by noting that the term “taxpayer” as used in section 468 is not defined; given that section 468 does not itself define “taxpayer,” the general definition under section 7701(a)(14) applies; and therefore, for these purposes, “taxpayer” includes cash-method taxpayers and is not limited to accrual-method taxpayers.