



# TaxNewsFlash

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## U.S. Tax Court: Determination of and IRS supervisory approval for penalties

The U.S. Tax Court today held that when the IRS asserts multiple penalties, an initial determination of all penalties is not required to be made at the same time or by the same IRS person, and supervisory approval is not required to be provided on a particular form.

The case is: *Palmolive Building Investors, LLC v. Commissioner*, 152 T.C. No. 4 (February 28, 2019). Read the Tax Court's [opinion](#) [PDF 93 KB]

### Summary

This case started when the IRS issued a notice of final partnership administrative adjustment (FPAA) for the tax year 2004. At issue was whether there was entitlement to a charitable contribution deduction for a donation of a façade easement as well as possible liability for penalties.

The charitable contribution deduction was the subject of a previous Tax Court opinion in 2017, when partial summary judgment was granted for the IRS (the Tax Court held that no charitable contribution deduction was to be allowed because of a failure to comply with certain requirements of section 170).

The liability for penalties was still at issue. A question in today's case before the Tax Court was whether the IRS had obtained written supervisory approval of the initial determination of the penalties pursuant to section 6751(b).

The Tax Court today granted summary judgment for the IRS, concluding that when the IRS asserts multiple penalties, section 6751(b)(1) does not require that:

- The "initial determination" of all the penalties be made at the same time or by the same individual
- Supervisory approval be made on a particular form (the statute is satisfied by an approval made on Form 5701 or Form 5402-c with the attachment of the subordinate's "initial determination" for the penalty)

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