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TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1962

No. 80

MARK E. SCHLUDE, ET AL., PETITIONERS,

US.

COMMISSIONER OF INTERNAL REVENUE

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS
FOR THE RIGHTH CIRCUIT

SUPREME COURT OF THE UNITED STATES OCTOBER TERM, 1962

No. 80

MARK E. SCHLUDE, ET AL., PETITIONERS,

 $_{oldsymbol{-}}vs$

COMMISSIONER OF INTERNAL REVENUE

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS.

FOR THE EIGHTH CIRCUIT

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[fol. 1]

IN THE TAX COURT OF THE UNITED STATES

General Docket

Mark E. Schlude, 459 Beverly Drive, Omaha, Nebraska, Petitioner,

Docket No. 69,591

VS.

Commissioner of Internal Revenue, Respondent.

Appearances for Petitioner:,

Name: Robert Ash, Esq.,

Address: 1921 Eye Street, N. W.,

Washington 6, D. G.

Carl F. Bauersfeld, Esq., Einar Viren, Esq.

Docket Entries in Docket No. 69,591

Date Month Day Year

Fitings and Proceedings .

Aug. 29, 1957 Petition filed: Fee Paid 8/29/57.

Aug. 29, 1957 Request by petr. for trial at Omaha, Ne-

braska. Granted Sept. 11, 1957.

Oct. 4, 1957 Answer by resp. filed.

Dec. 24, 1957 Notice of trial-3-24-58 at Omaha Neb.

Mar. 4, 1958. Motion by petr. to consolidate Dkt. Nos. 62109, 69591, 69593. Granted 3-24-58.

Mar. 6, 1958 Notice of hgr. 3-24-58, Omaha, Nebr., on petr. motion.

Mar. 24, 1958 Trial before J. Black at Omaha, Nebraska, Joint Oral motion to consolidate. Granted (62109, 69591, 2, 3).

Stipulation of Facts filed at trial. Appearance of Carl F., Bauersfeld and Einar

Viren, Esq., filed.
Briefs due June 23, 1958.
Reply Briefs due July 23, 1958.
Submitted to J. Black.

[fol. 2]	
Date' Month Day Year	Filings and Proceedings
	Under Submission.
Apr. 8, 1958	Supplemental Stipulation of Facts.
Apr., 17, 1958	Transcript of Proceedings 3-24-58 filed.
June. 20, 1958	Motion by resp. for extension of time to July 7, 1958, to-file brief. Granted 6-23-58.
June 23, 1958	Motion by petr. for extension of time to July 23, 1958, to file brief. Granted 6/23/58.
July 23, 1958	Brief for Petr. filed.
July 24, 1958	Motion by resp. for extension of time to Aug. 7, 1958, to file brief. Granted 7-25-58.
Aug. 5, 1958	Brief for Resp. filed.
Sept. 3, 1958	Motion by petr. for extension of time to Oct. 6, 1958, to file reply brief. Granted 9-4-58.
Sept. 3, 1958	Joint Motion to correct the transcript. Granted 9-5-58.
Sept. 4, 1958	Reply Brief filed by Resp.,
Oct. 3, 1958	Reply Brief filed by Petr.
June 18, 1959	Motion by petr. for leave to call the Court's attention to certain cases. Granted 6-19-59.
Sept. 28, 1959	Findings of Fact and Opinion filed Judge. Black. Decision will be entered under R. 50.
Nov. 19, 1959	Motion by resp. for revision of order "No obj. by petr." Granted 11-23-59.
Nov. 23, 1959	Order, that resp. motion is Granted and the Findings of Fact and Opinion of Sept. 28, 1959 is revised.
Nev. 23, 1959	Decision entered, Judge Black.
Feb. 3, 1960	Appellate Proceedings. 6. Petition for Review by U. S. Ct. of Ap. for 7. Sh Cir. filed by petr.
	Proof of Service of pet. for rev. filed.
Feb. 11, 1960	Agreed Designation of Contents of Record
	on Rev. filed.

[fol. 3]

IN THE TAX COURT OF THE UNITED STATES General Docket

. Marzalie Schlude 459 Beverly Drive, Omaha, Nebraska, Petitioner,

Docket No. 69,592

Commissioner of Internal Revenue, Rospondent.

Appearances for Petitioner:

Name: Robert Ash, Esq.,

Address: 1921 Eye Street, N.W.,

Washington 6, D. C.

Carl F. Bauersfeld, Esq., Einar Viren, Esq.

Docket Entries in Docket No. 69,592

Filings and Proceedings. Month Day Year Petition filed: Fee Paid 8/29/57. Aug. 29, 1957 Request by petr. for trial at Omaha, Ne-Aug. 29, 1957 braska. Granted Sept. 11, 1957. Answer by resp. filed. Oct. 4, 1957 Notice of trial 3-24-58 at Omaha, Neb. Dec. 24, 1957 Motion by petr. to consolidate Dkt. Nos. 62109, 69591-69593. Granted 3-24-58. Mar., 4, 1958 Notice of hgr. 3-24-58, Omaha, Nebr., on Mar. 6, 1958 petr. motion. Trial before J. Black at Omaha, Neb. Joint oral motion to consolidate. Granted Mar. 24, 1958 (62109, 69592, 2, 3).
Stipulation of Facts filed at trial. Appearance of Carl F. Bauers feld and Linux Viren, Esq., filed.
Briefs due June 23, 1958.
Reply Briefs due July 23, 1958.
Submitted to J. Black. Proceedings
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t. for rev. filed. f Contents of Record [fol. 3]

IN THE TAX COURT OF THE UNITED STATES
General Docket

"Marzalie Schlude 459 Beverly Drive, Omaha, Nebraska, Petitioner,

Docket No. 69,592

US.

Commissioner of Internal Revenue, Rospondent.

Appearances for Petitioner:

Name: Robert Ash, Esq.,

Address: 1921 Eye Street, N.-W.

Washington 6, D. C.

· Carl F. Bauersfeld, Esq., Einar Viren, Esq.

Docket Entries in Docket No. 69,592

Month Day Year

Filings and Proceedings

Aug. 29, 1957 Petition filed. Fee Paid 8/29/57.

Aug. 29, 1957 Request by petr. for trial at Omaha, Nebraska. Granted Sept. 11, 1957.

Oct. 4, 1957 Answer by resp. filed.

Dec. 24, 1957 Notice of trial 3-24-58 at Omaha, Neb.

Mar., 4, 1958 Motion by petr. to consolidate Dkt. Nos. 62109, 69591-69593. Granted 3-24-58.

Mar. 6, 1958 Notice of hgr. 3-24-58, Omaha, Nebr., on petr. motion.

Mar. 24, 1958 Trial before J, Black at Omaha, Neb.

Joint oral motion to consolidates Granted

(62109, 69592, 2, 3).

Stipulation of Facts filed at trial. Appearance of Carl F. Bauersfeld and Linux

Viren, Esq., filed.

Briefs die June 23, 1958.

Reply Briefs due July 23, 1958

Submitted to J. Black.

. Month	Tate	Year /	Filings and Proceedings
Apr.	 S.	1958	Under Submission. Supplemental Stipulation of Facts.
•		1958	Transcript of Proceedings 3-24-58 filed.
June	. , '	7	Motion by resp. for extension of time to July 7, 1958, to file brief. Granted 6-23-58.
June	23,	1958	Motion by petr. for extension of time to July 23, 1958, to file brief. Granted 6/23/58.
July	23,	1958	Brief for Petr. filed.
July	24,	1958	Motion by resp. for extension of time to Aug. 7, 1958, to file Brief. Granted 7-25-58.
Aug.	3,	1958,	Brief for Resp. filed.
Sept.	3,	1958	Motion by petr. for extension of time to Oct. 6, 1958, to file reply brief. Granted 9-4-58.
Sept:	3,	1958	Joint Motion to correct the transcript. Granted 9-5-58.
Sept.	4,	1958	Reply Brief filed by Resp.
Oct.	3,	1958	Reply Brief filed by Petr.
June	18,		Motion by petr. for leave to call the Court's attention to certain cases. Granted 6-19-59.
Sept.	28,	1959·	Findings of Fact and Opinion filed Judge Black. Decision will be entered under R. 50.
Nov.	19,	1959	Motion by resp. for revision of order "No obj. by petr." Granted 11-23-59.
Nov.	23.	1959	Order, that resp. motion is Granted and the Findings of Fact and Opinion of Sept. 28, 1959 is revised.
Nov.	23,	,1959	Decision entered, Judge Black.
			Appellate Proceedings.
Feb.	3,	1960	Petition for Review by U. S. Ct. of Ap. for Sth Cir. filed by petr.
Feb.	3,	1.60	Proof of Service of pet. for rev. filed.
Feb.	11,	1960	Agreed Designation of Contents of Record on Rev. filed.
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IN THE TAX COURT OF THE UNITED STATES

General Docket

Mark E. Schlude and Marzalie Schlude, Husband and Wife, 459 Beverly Drive, Omaha, Nebraska, Petitioner,

Docket No. 69,593

Commissioner of Internal Revenue, Respondent.

Appearances for Petitioner:

Robert, Ash, Esq., Name:

Address: 1921 Exe Street, N. W., Washington 6, D. U.
Carl F. Bauersfeld, Esq., Einar Viren, Esq.

Docket Entries in Docket No. 69,593

Date Month Day' Year	Filings and Proceedings
Aug. 29, 1957	Petition filed. Fee paid 8/29/57.
Aug. 27, 1957	Request by petr. for trial at Omaha, Nebraska. Granted Sept. 11, 1957.
Oct. 4, 1957	Answer by resp. filed.
Dec. 24, 1957	Notice of trial 3-24-58 at Omaha, Neb.
Mar. 4, 1958	Motion by petr. to consolidate Dkt. Nos. 62109, 69591-69593. Granted 3-24-58.
Mar. 6, 1958	Notice of hgr. 3-24-58, Omaha, Nebr., on petr. motion.
Mar. 24, 1958	Joint oral motion to consolidate. Granted (62109, 69591, 2, 3).
	Stipulation of Facts filedrat trial. Appearance of Carl F. Bauersfeld and Einar Viren, Esq., filed.
	Briefs due June 23, 1958.
	Reply Briefs due July 23, 1958. Submitted to J. Black.
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[fol. 6]	
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Date Month Day Yes	Filings and Proceedings
	Under Submission.
Apr. 8, 19:	and the control of th
Apr. 17, 195	58 Transcript of Proceedings 3-24-58 filed.
June 20, 19	Motion by resp. for extension of time to July 7, 1958, to file brief. Granted 6-23-58.
June 23, 198	Motion by petr. for extension of time to July 23, 1958, to file brief. Granted 6/23/58.
July 23, 193	58 Bnief for Petr. filed.
July 24, 195	Motion by resp. for extension of time to Aug. 7, 1958, to file Brief: Granted 7-25-58.
Aug. 5, 195	58 Brief for Resp. filed.
Sept. 3, 198	Motion by petr. for extension of time to Oct. 6, 1958, to file reply brief. Granted 9-4-58.
Sept. 3, 19:	58 Joint Motion to correct the transcript. Granted 9-5-58.
Sept. 4, 19:	58 Reply Brief filed by Resp.
Oct. 3, 198	58 Reply Brief filed by Petr.
June 18, 195	Motion by petr. for leave to call the Court's attention to certain cases. Granted 6-19-59.
Sept. 28, 195	59 Findings of Fact and Opinion filed Judge Black. Decision will be entered under R. 50.
Nov. 19, 195	Motion by resp. for revision of order "No obj. by petr." Granted 11-23-59.
Nov. 23, 195	Order, that resp. motion is Granted and the Findings of Fact and Opinion of Sept. 28, 1959 is revised.
Nov. 23, 19	59 Decision entered, Judge Black.
Feb. 3, 190	Appellate Proceedings.
Feb. 3, 196	60 Proof of Service of pet. for rev. filed.
	60 Agreed Designation of Contents of Record on Rev. filed.

[fol. 7]

IN THE TAX COURT OF THE UNITED STATES Docket No. 69591.

MARK E. SCHLUDE, Petitioner,

COMMISSIONER OF INTERNAL REVENUE, Respondent.

PETITION OF MARK E. SCHLUDE IN DOCKET No. 69591-Filed August 29, 1957

The above-named petitioner hereby petitions for a redetermination of the deficiency set forth by the Commissioner of Internal Revenue in his notice of deficiency (RC:OMA(OMA): Ap WEF: BCR: binb) dated July 2, 1957, and as a basis of his proceeding alleges as follows:

Petitioner is an individual whose address is 459 Beverly Drive, Omaha, Nebraska. The return for the year here involved was filed with the District Director of Internal Revenue, Omaha, Nebraska.

The notice of deficiency, a copy of which is attached hereto and made a part of this petition by reference, is dated July 2, 1957.

The tax in controversy is income tax for the year 1952 in the total amount of \$9,264.69.

The determination of tax set forth in said notice of deficiency is based upon the following errors:

A. The Commissioner erred in increasing petitioner's "partnership income" in the amount of \$14,101.12 for the year 1952.