

T.C. Memo. 2012-115

UNITED STATES TAX COURT

LEE STOREY AND WILLIAM STOREY, Petitioners *v.*
COMMISSIONER OF INTERNAL REVENUE, Respondent

Docket No. 10230-10.

Filed April 19, 2012.

Gregory Alan Robinson, for petitioners.*

Chris J. Sheldon, for respondent.

MEMORANDUM FINDINGS OF FACT AND OPINION

KROUPA, Judge: Respondent determined deficiencies in petitioners'

Federal income tax of \$17,237, \$123,414 and \$119,191 for 2006, 2007 and 2008

*Brief amici curiae was filed by Michael C. Donaldson and Christopher L. Perez on behalf of the International Documentary Association, Film Independent, National Association of Latino Independent Producers, Women Make Movies, National Alliance for Media Art and Culture and University Film and Video Association.

respectively (years at issue).¹ Respondent also determined petitioners liable for the accuracy-related penalty under section 6662(a) for the years at issue.²

We are asked to decide a number of issues regarding petitioner Lee Storey³ and her documentary film production activity, which turn on fact-intensive analyses. The primary issue is whether petitioner, a law firm partner and full-time attorney, was involved in the trade or business of film production under section 162 during the years at issue. We hold that she was engaged in the trade or business of film production during each of the years at issue and that she was engaged in this business for profit. Next we must determine whether petitioner's elections under section 181 were adequate regarding the years at issue so that her production costs could be expensed. We hold that they were. We must then decide whether to disallow certain of petitioner's expenses for lack of sufficient substantiation. We do not disallow them. Finally, we are asked to decide whether petitioners are subject to the accuracy-related penalty under section 6662(a) for the years at issue. We hold that they are not.

¹Dollar amounts are rounded to the nearest dollar.

²All section references are to the Internal Revenue Code in effect for the years at issue, and all Rule references are to the Tax Court Rules of Practice and Procedure, unless otherwise indicated.

³For convenience, we refer to Lee Storey as petitioner.