



# TaxNewsFlash

## United States

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### **U.S. Tax Court: Income from gravel mined on Indian land, taxable**

The U.S. Tax Court today issued a “reviewed opinion” concluding that income that the taxpayers earned from selling gravel mined from Seneca Nation land was taxable income and was not excluded by either treaty or by the General Allotment Act.

The case is: *Perkins v. Commissioner*, 150 T.C. No. 6 (March 1, 2018). Read the [opinion](#) [PDF 113 KB] that includes both concurring and dissenting opinions

#### **Summary**

The taxpayer husband and wife (an enrolled member of the Seneca Nation) claimed that income they earned from selling gravel mined from Seneca Nation land was exempt from tax under the General Allotment Act, the Canandaigua Treaty, and the Treaty of 1842 because the income was derived from Indian land.

The IRS adjusted the taxpayers’ income to include the gravel income, and also determined that they were liable for additions to tax and penalties under sections 6651(a)(1) and 6662(a).

The Tax Court majority today held that the income earned from selling gravel mined from Seneca Nation land was taxable income that was not excluded by either treaty or by the General Allotment Act.

The taxpayers were found to be liable for additions to tax under section 6651(a)(1) (failure to timely file), but not for penalties under section 6662(a) (accuracy related) because the IRS did not satisfy the burden of production.

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