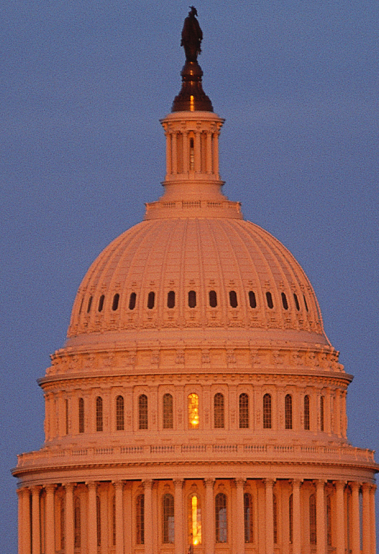




TaxNewsFlash

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U.S. Tax Court: Accounting for deferred fees using GAAP by retirement community upheld

The U.S. Tax Court today issued a memorandum opinion,* granting a taxpayer's motion for summary judgment by finding that the taxpayer—a company that owned and operated a continuing care retirement community—had correctly accounted for a portion of the upfront payments from its residents when it calculated its taxable income for 2008-10.

The case is: *Continuing Life Communities Thousand Oaks LLC v. Commissioner*, T.C. Memo. 2022-31 (April 6, 2022). Read the [T.C. Memo opinion](#) [PDF 304 KB]

*A memorandum opinion is issued by the Tax Court in a case with respect to which the law is settled or factually driven (i.e., in a case that does not involve a novel legal issue). A memorandum opinion may be cited as precedent.

Summary

The taxpayer collected three types of fees from its residents: a contribution amount, a deferred fee, and monthly fees. The deferred fee was payable if the agreement with a resident was terminated (by death, early departure, or expulsion) and was computed as an escalating percentage of the contribution amount, depending on how much time had passed between initiation of the agreement with the resident and its termination.

The taxpayer followed generally accepted accounting principles (GAAP) in accounting for the deferred fees it collected from residents, as required by California law. The taxpayer also reported the deferred fees for federal income tax purposes using GAAP, which resulted in the taxpayer generally being able to defer recognizing income with respect to the deferred fees. The IRS, however, argued that using GAAP to account for the deferred fees was not allowed under the Code.

The Tax Court found that the text of the Code and regulations, tax accounting principles, and case law all supported the position of the taxpayer. The court noted, however, that on questions of tax accounting, there is solid precedent for the notion that the IRS' determination must be upheld unless it constitutes an abuse of discretion. The court nonetheless concluded that history of how the IRS' "discretion came to be weakens its power to overcome text, purpose, and analogy."

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