



TaxNewsFlash

United States

No. 2016-397
September 7, 2016

Tax Court: No section 901 credit, amounts paid as tax to Virgin Islands

The U.S. Tax Court today issued an opinion concluding that individuals who did not file federal income tax returns for 2001—but filed income tax returns with the Virgin Islands Bureau of Internal Revenue—were not allowed to credit the amounts paid as tax to the Virgin Islands against their U.S. income tax liabilities under section 901.

The case is: *Vento v. Commissioner*, 147 T.C. No. 7 (September 7, 2016). Read the Tax Court's [opinion](#) [PDF 120 KB]

Summary

The taxpayers—three sisters who ultimately stipulated that they were not bona fide residents of the Virgin Islands during 2001—paid amounts as income tax with their individual territorial income tax returns filed with the Virgin Islands for 2001. They did not file U.S. federal income tax returns.

The Tax Court concluded that:

- The taxpayers had failed to establish that their determination that they were subject to Virgin Islands tax, rather than U.S. tax, for 2001 was based on a reasonable interpretation of applicable law.
- The taxpayers had failed to show that they had exhausted all effective and practical means of securing a refund of the amounts paid to the Virgin Islands.
- The taxpayers did not meet their burden of proving that the amounts in issue were "taxes paid" within the meaning of Reg. section 1.901-2(e).

- The limitation on foreign tax credits imposed by section 904 applies to taxes paid to the Virgin Islands, and the taxpayers failed to establish that the amounts in issue did not exceed the applicable limitations.
- The allowance of the claimed credits would be inconsistent with congressional intent that payments of Virgin Islands tax by U.S. citizens or residents not be creditable under section 901.

The information contained in TaxNewsFlash is not intended to be "written advice concerning one or more Federal tax matters" subject to the requirements of section 10.37(a)(2) of Treasury Department Circular 230, as the content of this document is issued for general informational purposes only, is intended to enhance the reader's knowledge on the matters addressed therein, and is not intended to be applied to any specific reader's particular set of facts. Although we endeavor to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. Applicability of the information to specific situations should be determined through consultation with your tax adviser.

KPMG International is a Swiss cooperative that serves as a coordinating entity for a network of independent member firms. KPMG International provides no audit or other client services. Such services are provided solely by member firms in their respective geographic areas. KPMG International and its member firms are legally distinct and separate entities. They are not and nothing contained herein shall be construed to place these entities in the relationship of parents, subsidiaries, agents, partners, or joint venturers. No member firm has any authority (actual, apparent, implied or otherwise) to obligate or bind KPMG International or any member firm in any manner whatsoever.

Direct comments, including requests for subscriptions, to [Washington National Tax](#). For more information, contact KPMG's Federal Tax Legislative and Regulatory Services Group at + 1 202.533.4366, 1801 K Street NW, Washington, DC 20006-1301.

To unsubscribe from TaxNewsFlash-United States, reply to [Washington National Tax](#).

[Privacy](#) | [Legal](#)