

# United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 11-1400

September Term 2011

USTC-30214-07

Filed On: March 15, 2012

Harold X. O'Boyle and Sally O'Boyle,

Appellants

v.

Commissioner of Internal Revenue Service,

Appellee

## ON APPEAL FROM THE UNITED STATES TAX COURT

**BEFORE:** Henderson, Tatel, and Griffith, Circuit Judges

### JUDGMENT

This appeal was considered on the record from the United States Tax Court and on the briefs filed by the parties. See Fed. R. App. P. 34(a)(2); D.C. Cir. Rule 34(j). It is

**ORDERED AND ADJUDGED** that the Tax Court's orders on review be affirmed. The Tax Court did not abuse its discretion in allowing the Commissioner to enter the substitutes for returns into evidence, see United States v. Gurr, 471 F.3d 144, 151 (D.C. Cir. 2006) (review of district court's admission of report over hearsay objection is for abuse of discretion); or in imposing a penalty pursuant to 26 U.S.C. § 6673, see Sandvall v. Commissioner, 898 F.2d 455, 459 (5th Cir. 1990) (Tax Court's assessment of penalties under § 6673 can be reversed only for abuse of discretion).

Pursuant to D.C. Circuit Rule 36, this disposition will not be published. The Clerk is directed to withhold issuance of the mandate herein until seven days after resolution of any timely petition for rehearing or petition for rehearing en banc. See Fed. R. App. P. 41(b); D.C. Cir. Rule 41.

### Per Curiam

**FOR THE COURT:**  
Mark J. Langer, Clerk

BY: /s/  
Jennifer M. Clark  
Deputy Clerk