

**US TAX COURT  
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**SYM**



**US TAX COURT  
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**DEC 24 2014**

PRESTON OLSEN & ELIZABETH OLSEN  
Petitioner(s)

ELECTRONICALLY FILED

v.

Docket No. 26469-14

COMMISSIONER OF INTERNAL REVENUE,  
Respondent

**ANSWER**

**SERVED Dec 24 2014**

UNITED STATES TAX COURT

PRESTON OLSEN & )  
 ELIZABETH OLSEN, )  
 )  
 )  
 ) Petitioners, )  
 )  
 ) v. ) Docket No. 26469-14  
 )  
 ) COMMISSIONER OF INTERNAL REVENUE, ) Filed Electronically  
 )  
 ) Respondent. )

ANSWER

RESPONDENT, in answer to the petition filed in the above-entitled case admits, denies, and alleges as follows:

1. Admits.
2. Admits.
3. Denies.
4. Admits.
5. Admits.
6. Admits, but alleges that respondent also determined penalties under section 6662 for tax years 2010, 2011, and 2012.
7. Admits.
8. Admits that petitioners are seeking relief, but denies the remainder of paragraph 8 of the petition.
- 8.a. Admits respondent erroneously imposed a recapture of the general business credit petitioners claimed on their



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individual income tax return for tax year 2009 in the amount of \$7,506.00; denies remainder.

8.b. Admits respondent erroneously recaptured a depreciation expense petitioners claimed on their individual income tax return for tax year 2009 in the amount of \$30,600.00.

8.c. Admits respondent erroneously attempted to recapture, in tax year 2010, the credit and depreciation claimed by petitioners in tax year 2009; denies remainder.

8.d. Denies that tax year 2009 is at issue in this case; alleges the notice of deficiency asserts tax and penalties for only tax years 2010, 2011, and 2012; admits that respondent erroneously made adjustments to petitioners deficiency for tax year 2010 as discussed in paragraphs 8.a. through 8.c. of the petition.

8.e. Denies error.

8.f. Denies.

8.g. Denies error.

8.h. Denies.

8.i. Denies error.

8.j. Denies.

8.k. Denies error.

8.l. Denies.

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8.m. Admits that petitioners acknowledge that, based on any modifications to petitioners' adjusted gross income as determined by the Court, there may be statutory adjustments to their itemized deductions for tax year 2010; denies error.

8.n. Admits that petitioners acknowledge that, based on any modifications to petitioners' adjusted gross income as determined by the Court, there may be statutory adjustments to the deductions they claimed in tax years 2010 and 2011 for student loan interest; denies error.

9. Denies each allegation of the petition not previously admitted, qualified, or denied.

WHEREFORE, it is prayed:

- (1) That the Court deny the relief sought in the petition;
- (2) That the Court approve respondent's determinations, as set forth in the notice of deficiency; and
- (3) That the Court determine that:
  - (a) Petitioners are not entitled to fees and costs;
  - (b) Petitioners' prayer for fees and costs is premature, since petitioners have not established the status of a prevailing party as required by section 7430; and

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(c) Petitioners' prayer for fees and costs is improper under T.C. Rules 34(a)(2) and 231.

WILLIAM J. WILKINS  
Chief Counsel  
Internal Revenue Service

Date: DEC 24 2014

By: *SKYLER K. BRADBURY*  
SKYLER K. BRADBURY  
Senior Attorney  
(Small Business/Self-Employed)  
Tax Court Bar No. BS0665  
150 Social Hall Avenue  
Suite 313A  
Salt Lake City, UT 84111  
Telephone: (801) 799-6636

OF COUNSEL:

THOMAS R. THOMAS  
Division Counsel  
(Small Business/Self-Employed)

EDWIN HERRERA  
Area Counsel (Area 5)  
(Small Business/Self-Employed)

CHARLES B. BURNETT  
Associate Area Counsel (Salt Lake City)  
(Small Business/Self-Employed)