

# A veteran takes on the IRS: Why tax cases are not boring

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Behind every tax case brought to trial, a morality drama plays out. This was the case in the October 2014 Tax Court Memo decision of *Thad Deshawn Smith v Commissioner of IRS*. When you read the case, you find that the judge wrote a textbook opinion on the rules governing income tax deductibility of gifts to charity, including clothing, furniture, and electronic equipment. Judge Lauber denied tax deductions to Mr. Smith because he did not have the correct receipts or appraisals for donating nearly \$28,000 worth of items.

But far more interesting is the back story that I inferred from the scarce facts mentioned in the judge's written opinion. Mr. Smith was a military man living in Maryland, probably in the Navy or Marines. He traveled extensively, which likely means he was engaged overseas in the Middle East. His mother had died, so presumably he came home to Virginia for her funeral. While home, his father, in grief, told him to take everything out of the Virginia family home. Presumably, the father lived elsewhere, perhaps in a nursing home. Mr. Smith claimed he personally donated seven sofas, four TVs, five bedroom sets, six mattresses, a kitchen set, dining room set, china cabinet, three rugs, 180 shirts, 63 slacks, 153 jeans, 173 shoes, 51 dresses, 35 sweaters, nine overcoats, seven suits, two computers, a printer and a copier, all from the

Virginia home. Mr. Smith combined all the items on two blank receipts he had picked up from AMVETS in advance. After donating the items, he created a spreadsheet and valued the items using a Salvation Army website list of donation values. In most cases, he used values higher than the "good condition" category listed on the website.

When Mr. Smith first filed his 2009 income tax return, his tax return preparer refused to give him credit for the items donated to AMVETS. He limited Mr. Smith's donation deduction to \$490. Later, probably during 2012 or 2013, Mr. Smith was audited, and the IRS challenged other items on his tax return. In the middle of the audit, Mr. Smith filed an amended 2009 tax return, and claimed \$28,000 more of charitable deductions for the donations to AMVETS, even though his initial tax return preparer did not include the deductions. The IRS denied the entire \$28,000 of deductions and the judge agreed. Mr. Smith did not have an attorney, and did not introduce a tax return preparer at trial.

So was Mr. Smith a greedy, headstrong, hard-charging Marine who wasn't going to let anyone push him around? Or was he simply an absent minded, grieving son, trying to do his best with limited resources on his limited leave time, while concentrating on his mission to protect the USA?

The judge assessed a negligence penalty against Mr. Smith for disregard of the rules. Sounds like Mr. Smith was more like Colonel Jessup in "A Few Good Men."

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