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the president "lost" this legal battle, but the actual truth is more complex. The main sticking po

**Ken Berry, JD** • Jul. 28, 2020



By Ken Berry, J.D. – CPA Practice Advisor Tax Correspondent

On July 8, the U.S. Supreme Court, the top court in the land, handed down its rulings in two much-anticipated and hotly-debated cases involving disclosure of President

Trump's tax returns. But the outcomes were far from clear-cut as various factions

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This much is clear. In both cases, by a 7-2 majority, the Court rejected Trump's argument that he was effectively "above the law" in his position as president of the United States, the POTUS.

In the first case, the prosecutor in Manhattan, home to the stylish Trump Tower on 5<sup>th</sup> Avenue, tried to obtain financial records from Trump as part of an investigation into the president's finances. The second case focused on the efforts of Congress to access similar records relating to activities involving financial regulations and election interference.

The Court said in both cases that Trump isn't granted immunity from such investigations just because he occupies the office of POTUS. Thus, at first glance, the president "lost" this legal battle, but the actual truth is more complex. The main sticking point is that he doesn't have to turn over the records right away.

Regarding the investigation by the Manhattan prosecutor, Trump has the same opportunity to raise objections that any other citizen could rely on. For instance, he could claim that the subpoena is too broad or vague or burdensome or that it unfairly targets him and is a form of harassment. He may also object based on constitutional arguments that this obstructs his responsibilities as POTUS.

As to the Congressional investigation, the president can't cite complete immunity, but he can still argue that the subpoenas are invalid. One such theory is that the basic principle of "separation of powers" is circumvented by the subpoena. In particular, Trump may claim that the subpoena is overly broad, that it isn't supported by sufficient evidence or that impedes his presidential obligations.

Notably, the Court remanded both cases back to the lower courts to resolve these issues. And that could, and almost certainly will, take lots of time.

For one thing, rest assured that the president's attorneys will use every legal

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before then, grand jury evidence is supposed to be secret, as is Congressional evidence. Therefore, it might by years before the public can view Trump's tax returns and they might even be sealed.

So who's the real winner in the two U.S. Supreme Court cases against President Trump? You be the judge.

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