Syllabus

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Timber & Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

UNITED STATES *v.* GALLETTI ET AL.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

No. 02–1389. Argued January 12, 2004—Decided March 23, 2004

"[T]he amount of any tax imposed [by the Internal Revenue Code] shall be assessed within three years after the return was filed." 26 U. S. C. §6501(a). If a tax is properly so assessed, the statute of limitations for collecting it is extended by 10 years from the assessment date. §6502(a). Respondents were general partners of a partnership (hereinafter Partnership) that failed to pay significant federal employment taxes from 1992 to 1995. The Internal Revenue Service (IRS) timely assessed the Partnership, but the taxes were never paid. Respondents later filed for Chapter 13 bankruptcy protection, and the IRS then filed proof of claims against them for the Partnership's unpaid employment taxes. Respondents objected, arguing that the timely assessment of the Partnership did not extend the 3-year limitations period against the general partners, who had not been separately assessed within that period. The Bankruptcy Court and the District Court agreed and sustained respondents' objections. The Ninth Circuit affirmed, holding that since respondents are "taxpayers" under §7701, which defines "taxpayer" to mean "any person subject to any internal revenue tax," they are also "taxpayers" under §§6203 and 6501. As such, the court held that the assessment against the Partnership extended the limitations period only with respect to the Partnership.

Held: The proper tax assessment against the Partnership suffices to extend the statute of limitations to collect the tax in a judicial proceeding from the general partners who are liable for the payment of the Partnership's debts. Pp. 4–9.

(a) Respondents argue that a valid assessment triggering the 10-year increase in the limitations period must name them individually, as they are primarily liable for the tax debt. They claim, first, that

they are the relevant taxpayers under §6203, which requires the assessment to be made by "recording the liability of the taxpayer." Although the Ninth Circuit correctly concluded that an individual partner can be a "taxpayer," §6203 speaks of the taxpayer's "liability," which indicates that the relevant taxpayer must be determined. Here, the liability arose from the Partnership's failure to comply with §3402(a)(1)'s requirement that an "employer [paying] wages" deduct and withhold employment taxes. And §3403 makes clear that the "employer" that fails to withhold and submit the requisite employment taxes is the "liable" taxpayer. In this case, the Partnership is the "employer." Second, respondents claim that they are primarily liable for the tax debt because California law makes them jointly and severally liable for the Partnership's debts. However, to be primarily liable for this debt, respondents must show that they are the "employer." And, under California law, a partnership and its general partners are separate entities. Thus respondents cannot argue that, for all intents and purposes, imposing a tax directly on the Partnership is equivalent to imposing a tax directly on the general partners, but must instead prove that the tax liability was imposed both on the Partnership and on respondents as separate "employers." That respondents are jointly and severally liable for the Partnership's debts is irrelevant to this determination. Pp. 4–7.

(b) The Code does not require the Government to make separate assessments of a single tax debt against persons or entities secondarily liable for that debt in order for §6502's extended limitations period to apply to judicial collection actions against those persons or entities. It is clear that "assessment" refers to little more than the calculation or recording of a tax liability, see, *e.g.,* §6201, and that it is *the tax* that is assessed, not the taxpayer, see, *e.g.,* §6501. The limitations period resulting from a proper assessment governs the time extension for enforcing the tax liability. *United States* v. *Updike,* 281 U. S. 489, 495. Once a tax has been properly assessed, nothing in the Code requires the IRS to duplicate its efforts by separately assessing the same tax against individuals or entities who are not the actual taxpayers but are, by reason of state law, liable for the taxpayer's debt. The assessment's consequences—the extension of the limitations period for collecting the debt—attach to the debt without reference to the special circumstances of the secondarily liable parties. Here, the tax was properly assessed against the Partnership, thereby extending the limitations period for collecting the debt. The United States now timely seeks to collect that debt in judicial proceedings against respondents. Pp. 7–9.

314 F. 3d 336, reversed and remanded.

THOMAS, J., delivered the opinion for a unanimous Court.