



# United States Tax Court

Washington, DC 20217

SYSCO CORPORATION,

Petitioner

v.

COMMISSIONER OF INTERNAL  
REVENUE,

Respondent

Docket No. 5728-23.

## ORDER

On October 2, 2023, petitioner filed a Motion for Partial Summary Judgment (Index no. 18) together with a Brief in Support (Index no. 19). On October 3, 2023, petitioner filed an Amended Motion for Partial Summary Judgment (Index no. 20).

On November 6, 2023, respondent filed a Cross Motion for Partial Summary Judgment (Index no. 25) together with a Brief in Support (Index no. 26).

The parties filed their respective responses and replies.

On August 26, 2024, the Court issued its opinion in *Varian Medical Systems, Inc. & Subsidiaries v. Commissioner*, No. 8435-23, 163 T.C. (August 26, 2024), a case involving the same principal issues as the ones addressed in the parties' Motions.

By Order served August 26, 2024, the parties were directed to file on or before September 9, 2024, a response addressing the effect of *Varian Medical Systems, Inc.* on the Motions filed in this case.

On September 9, 2024, the parties filed a Joint Response Regarding the Impact of *Varian Medical Systems, Inc. & Subsidiaries v. Commissioner* (Doc. 35). The Response provides:

The parties have conferred and agree that the Court's opinion in *Varian* fully resolves the parties' Motions. The parties request that the Court issue an order that (1) grants Sysco's Motion (Index nos. 18-20) to the extent it seeks a deduction under section 245A for its section 78 dividend for its 2018 tax year and denies the Commissioner's Motion (Index nos. 25-26) to the extent it seeks the opposite conclusion; and (2)

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grants the Commissioner's Motion (Index nos. 25-26) so far as it seeks to disallow Sysco's foreign tax credits under section 245A(d)(1).

This Joint Response regarding the impact of *Varian* does not waive any appeal rights otherwise held by the parties.

Upon due consideration, it is hereby

ORDERED that petitioner's Motion for Partial Summary Judgment (Index no. 18), as amended (Index no. 20) on October 3, 2023, is granted to the extent it seeks a deduction under section 245A for its section 78 dividend for its 2018 tax year and is denied in all other respects. It is further

ORDERED that respondent's Cross-Motion for Partial Summary Judgment (Index no. 25) filed November 6, 2023, is granted so far as it seeks to disallow petitioner's foreign tax credits under section 245A(d)(1) and is denied in all other respects.

This Order in no way affects the parties' rights to appeal.

**(Signed) Emin Toro**  
**Judge**