SUPREME COURT OF THE UNITED STATES

Commissioner of Internal Revenue v. First Security Bank of Utah, N. A.

405 U.S. 394 (1972) · No. No. 70-305 · Decided March 21, 1972

SUMMARY

The Supreme Court considered whether the Commissioner of Internal Revenue could allocate a portion of reinsurance premium income earned by a controlled insurance subsidiary to affiliated national banks under Internal Revenue Code § 482. The Court held that the income could not be attributed to the banks because federal banking law prohibited them from receiving insurance-related commissions or premiums, and affirmed the decision of the Tenth Circuit. Justice Marshall dissented.

CASE DETAILS

COURT	Supreme Court of the United States
WRITING FOR THE COURT	Justice Powell; Chief Justice Burger; Justice Douglas; Justice Brennan; Justice Stewart; Justice White; Justice Marshall; Justice Blackmun
JURISDICTION	Federal
DECIDED	March 21, 1972
DOCKET	No. 70-305
DISPOSITION	affirmed
PROCEDURAL POSTURE	The Commissioner allocated a portion of a controlled subsidiary's insurance-premium income to the respondent national banks under Internal Revenue Code § 482 and assessed tax deficiencies. The Tax Court affirmed. The Tenth Circuit reversed, and the Supreme Court granted certiorari to resolve a conflict with Local Finance Corp. v. Commissioner.
STANDARD OF REVIEW	Review of the legal validity of the Commissioner's allocation under Internal Revenue Code § 482; the Court accepted the Tax Court's relevant factual findings because they were not contested.
PRECEDENTIAL VALUE	United States Supreme Court precedent
PARTIES	Commissioner of Internal Revenue v. First Security Bank of Utah, N. A., First Security Bank of Idaho, N. A.

TOPICS

corporate tax · tax · tax deficiency · tax court procedure · statutory interpretation

PRACTICE AREAS

federal income taxation · tax administration · banking law · insurance law · corporate taxation

QUESTIONS PRESENTED

1. Whether Internal Revenue Code § 482 authorized the Commissioner to allocate to the Banks insurance-premium income received by Security Life when the Banks could not lawfully receive that income.
2. Whether the Banks' referral and processing of credit insurance, without receipt of commissions or premiums, resulted in taxable income attributable to them under § 482.

HOLDINGS

1. Section 482 did not authorize allocating Security Life's premium income to the Banks because the Banks could not lawfully receive insurance commissions or premiums and therefore did not have the complete power contemplated by the § 482 regulations to receive or shift that income.
2. The Court did not decide the full circumstances under which originating or referring business may generate taxable income, but agreed that origination or referral does not necessarily result in taxable income to the originating party.

KEY QUOTATIONS

> *"The underlying assumption always has been that in order to be taxed for income, a taxpayer must have complete dominion over it."* (405 U.S. at 403)

> *"We think that fairness requires the tax to fall on the party that actually receives the premiums rather than on the party that cannot."* (405 U.S. at 405)

> *"We conclude that the premium income received by Security Life could not be attributable to the Banks."* (405 U.S. at 407)

FACTUAL BACKGROUND

First Security Bank of Utah and First Security Bank of Idaho were wholly owned subsidiaries of First Security Corporation. The Banks offered borrowers credit life, health, and accident insurance, but received no commissions or other insurance-related income. After 1954, an independent insurer issued the policies and reinsured them with the holding company's subsidiary, Security Life, which retained 85% of the premiums; the Commissioner allocated 40% of that premium income to the Banks under § 482. The Banks had been advised that federal banking law prohibited them from receiving insurance commissions or premiums.

PROCEDURAL HISTORY

The Commissioner determined that 40% of Security Life's premium income should be allocated to the Banks as compensation for originating and processing credit insurance. The Tax Court upheld the allocation. The Tenth

Circuit reversed and remanded for further consideration of an alternative allocation to Management Company. The Supreme Court affirmed the Tenth Circuit's judgment.

DISPOSITION

affirmed

CASES CITED

- Local Finance Corp. v. Commissioner, 407 F.2d 629 (7th Cir. 1969), cert. denied, 396 U.S. 956 (1969)
- Corliss v. Bowers, 281 U.S. 376, 378 (1930)
- Harrison v. Schaffner, 312 U.S. 579, 582 (1941)
- James v. United States, 366 U.S. 213 (1961)
- Rutkin v. United States, 343 U.S. 130 (1952)
- L. E. Shunk Latex Products, Inc. v. Commissioner, 18 T.C. 940, 961 (1952)
- Saxon v. Georgia Association of Independent Insurance Agents, Inc., 399 F.2d 1010 (5th Cir. 1968)
- Commissioner v. Morris Trust, 367 F.2d 794, 795 (4th Cir. 1966)
- Commissioner v. Lester, 366 U.S. 299 (1961)
- Borge v. Commissioner, 405 F.2d 673 (2d Cir. 1968), cert. denied sub nom. Danica Enterprises v. Commissioner, 395 U.S. 933 (1969)
- Eli Lilly & Co. v. United States, 178 Ct. Cl. 666, 372 F.2d 990 (1967)
- Blair v. Commissioner, 300 U.S. 5 (1937)
- Teschner v. Commissioner, 38 T.C. 1003, 1009 (1962)
- Knetsch v. United States, 364 U.S. 361, 365 (1960)
- Commissioner v. Newman, 159 F.2d 848, 850-851 (2d Cir. 1947)
- Helvering v. Horst, 311 U.S. 112 (1940)
- Lucas v. Earl, 281 U.S. 111 (1930)
- Commissioner v. Sunnen, 333 U.S. 591, 604-610 (1948)
- United States v. Atlas Life Ins. Co., 381 U.S. 233 (1965)
- Commissioner v. Wilcox, 327 U.S. 404 (1946)
- Helvering v. Eubank, 311 U.S. 122 (1940)
- Burnet v. Leininger, 285 U.S. 136 (1932)
- United States v. Joliet & Chicago R. Co., 315 U.S. 44 (1942)
- Helvering v. Clifford, 309 U.S. 331 (1940)
- Old Colony Trust Co. v. Commissioner, 279 U.S. 716 (1929)
- Burnet v. Wells, 289 U.S. 670 (1933)
- Douglas v. Willcuts, 296 U.S. 1 (1935)
- Helvering v. Fitch, 309 U.S. 149 (1940)
- United States v. Mitchell, 403 U.S. 190 (1971)

- Hoeper v. Tax Commission, 284 U.S. 206 (1931)
- Nicholas A. Stavroudis, 27 T.C. 583, 590 (1956)

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