UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK

Leonard Greene and Joyce Greene v. The United States of America

864 F. Supp. 407 (S.D.N.Y. 1994) · No. 94 Civ. 0617 (GLG) · Decided October 13, 1994

SUMMARY

The United States District Court for the Southern District of New York considers cross-motions for summary judgment in a tax refund action involving charitable contributions of commodities futures contracts. The court addresses collateral estoppel, the partial-interest limitation under 26 U.S.C. § 170(f)(3), and whether the marked-to-market provisions of 26 U.S.C. § 1256 require recognition of gain upon donation. The court concludes that the donations qualified as an undivided portion of the taxpayers' interests and that the government's statutory arguments were not barred by collateral estoppel.

CASE DETAILS

COURT	United States District Court for the Southern District of New York
WRITING FOR THE COURT	District Judge Goettel
JURISDICTION	New York
DECIDED	October 13, 1994
DOCKET	94 Civ. 0617 (GLG)
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiffs brought an action against the United States seeking a refund of taxes, interest, and penalties assessed for tax years 1983 through 1987 after paying the assessments. The parties cross-moved for summary judgment.
STANDARD OF REVIEW	Summary judgment is appropriate when there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law under Federal Rule of Civil Procedure 56(c).
PRECEDENTIAL VALUE	published district court opinion

TOPICS

tax deductions · capital gains tax · tax refunds · statutory interpretation · summary judgment

PRACTICE AREAS

federal income tax · charitable contribution deductions · tax litigation · civil procedure

QUESTIONS PRESENTED

1. Whether collateral estoppel barred the government from litigating whether plaintiffs donated only partial interests in the futures contracts.
2. Whether plaintiffs' transfer of only the long-term-capital-gain portion of futures contracts constituted a contribution of an undivided portion of their entire interest eligible for a charitable deduction under 26 U.S.C. § 170(f)(3)(B)(ii).
3. Whether the marked-to-market provisions of 26 U.S.C. § 1256 required plaintiffs to recognize unrealized gain when they donated the futures contracts to charity.

HOLDINGS

1. Collateral estoppel did not bar the government from litigating whether plaintiffs donated only a partial interest in the futures contracts because that issue was not actually decided in the prior Greene litigation.
2. Plaintiffs donated an undivided portion of their entire interest in the futures contracts—the portion representing long-term capital gain—and therefore were not barred from claiming a charitable deduction under 26 U.S.C. § 170(f)(3).
3. The marked-to-market provisions of 26 U.S.C. § 1256 did not require plaintiffs to recognize unrealized capital gain when they donated the futures contracts to the Institute.

KEY QUOTATIONS

> *"The instant dispute is entirely over the interpretation of the relevant law—no factual disputes are involved."* (at 410)

> *"In sum, we find that the Greenes donated an undivided portion of their entire interest in the futures contracts to the Institute in donating only the portion of the contracts representing long-term capital gain."* (at 414)

> *"Nothing in the legislative history of § 1256 indicates that the marked-to-market rules were intended to alter the charitable deduction for the donation of futures contracts."* (at 416)

FACTUAL BACKGROUND

Leonard Greene founded and led the Institute for Socioeconomic Studies, an exempt private operating foundation. After ERTA amended 26 U.S.C. § 1256 to characterize gains from futures contracts as 60% long-term and 40% short-term, Greene transferred to the Institute the portion of selected futures contracts representing long-term capital gains while retaining the short-term portion. The contracts were sold shortly after transfer, with long-term-gain proceeds paid to the Institute and short-term-gain proceeds paid to Greene. The IRS required plaintiffs to recognize the long-term gain as income and, for the relevant later years, disallowed the charitable deduction on the ground that plaintiffs had donated nondeductible partial interests.

PROCEDURAL HISTORY

The IRS issued a notice of deficiency for tax year 1982, and plaintiffs' refund action concerning that year resulted in Greene v. United States, 806 F. Supp. 1165 (S.D.N.Y. 1992), aff'd, 13 F.3d 577 (2d Cir. 1994). The IRS later issued a notice of deficiency for tax years 1983 through 1987, disallowing charitable deductions on a partial-interest theory. Plaintiffs paid the assessments and filed this refund action. The district court granted plaintiffs' motion for summary judgment and denied the government's motion, while noting that the action remained open because the 1983 claim involved additional unresolved issues.

DISPOSITION

other

CASES CITED

- Greene v. United States, 806 F. Supp. 1165 (S.D.N.Y. 1992), aff'd, 13 F.3d 577 (2d Cir. 1994)
- Montana v. United States, 440 U.S. 147, 153, 155 (1979)
- Dennis v. Rhode Island Hosp. Trust Nat'l Bank, 744 F.2d 893, 898-899 (1st Cir. 1984)
- Blum v. Stenson, 465 U.S. 886, 896 (1984)
- Sheppard v. United States, 361 F.2d 972, 977-978 (Ct. Cl. 1966) (per curiam)