

August 23, 2007

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 06-50682

TRANSCAPITAL LEASING ASSOCIATES 1990-II, LP;
INTERNATIONAL BANCSHARES CORP.,
a Texas Corporation, and Its Subsidiaries;
IBS SUBSIDIARY CORP., a Delaware Corporation;
INTERNATIONAL BANK OF COMMERCE, a Texas Banking Corporation;
IBC FINANCIAL SERVICES, INC.,
a Texas Corporation, a Partner Other than the Tax Matters Partner
Formerly Known as Bancor Development Company of Laredo,

Plaintiffs-Appellants,

versus

UNITED STATES OF AMERICA,

Defendant-Appellee.

Appeal from the United States District Court
for the Western District of Texas
No. 5:01-CV-881

Before JONES, Chief Judge, and REAVLEY and SMITH, Circuit Judges.

PER CURIAM:*

The court has considered appellants' position in light of the briefs, the oral argument, and pertinent portions of the record. We find no reversible error of fact or law and affirm for essentially the reasons stated by the district court. Because the transaction lacked a genuine business purpose and was economically insubstantial, it is unnecessary for us to adopt either variant of the sham-transaction doctrine currently used by the courts of appeals. See Compaq Computer Corp. & Subsidiaries v. Comm'r, 277 F.3d 778, 781-82 (5th Cir. 2001) (noting the competing variants outlined in Rice's Toyota World, Inc. v. Comm'r, 752 F.3d 89 (4th Cir. 1985), and ACM P'Ship v. Comm'r, 157 F.3d 231 (3d Cir. 1998)). We also express no opinion on the ancillary question whether the business-purpose analysis of an alleged sham transaction that is a § 6221 partnership tax matter focuses on the subjective motivation of the taxpayer partner or the flow-through partnership entity. See 26 U.S.C. § 6221.

AFFIRMED.

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.