

UNITED STATES COURT OF APPEALS
For the Fifth Circuit

No. 93-4978

HALLIBURTON COMPANY, by Ken Nash, Employee,
Petitioner,
KEN NASH,
Petitioner-Appellant,
Cross-Appellee,

VERSUS

COMMISSIONER OF INTERNAL REVENUE SERVICE,
Respondent-Appellee,
Cross-Appellant.

CONSOLIDATED WITH

No. 93-4996

HALLIBURTON COMPANY,
Petitioner-Appellee,

VERSUS

COMMISSIONER OF INTERNAL REVENUE SERVICE,
Respondent-Appellant.

Appeals from the United States Tax Court

(TC #2397-91R)

(May 31, 1994)

Before JOHNSON, BARKSDALE, AND DeMOSS, Circuit Judges

PER CURIAM:¹

On April 27, 1987, Halliburton Company submitted an application to the Internal Revenue Service, requesting a determination of whether a partial termination of the Halliburton Profit Sharing and Savings Plan had occurred during the plan year ending on December 31, 1986. Ken Nash, a former employee of Halliburton, submitted a comment letter to the IRS with respect to Halliburton's requested determination. Thereafter, the Commissioner issued a proposed determination letter finding that a partial termination had occurred and, thus, that the plan was not "qualified" under Section 401(a) of the Internal Revenue Code (26 U.S.C.) during the 1986 plan year.

Halliburton subsequently petitioned the United States Tax Court for a declaratory judgment that a partial termination had not occurred and that the plan remained qualified. Nash subsequently filed a separate petition with the Tax Court, seeking a declaratory judgment that a partial termination had occurred and, thus, that he was entitled to the unvested portion of his pension benefits. See 26 U.S.C. § 411(d)(3). On March 11, 1993, the Tax Court entered a decision declaring that no partial termination had occurred.

¹Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

The Commissioner and Nash have appealed the Tax Court's decision, principally arguing that the court applied the wrong standard in determining that a partial termination did not occur. Having reviewed the Tax Court's thorough, 56-page opinion, we conclude that the court applied the correct legal standard.

As to Nash's other complaints and any other issues raised in the Commissioner's brief, we are convinced, after having reviewed the briefs, record, and relevant law, that the Tax Court's decision is correct and that it should in all respects be AFFIRMED.