

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

Summary Calendar

No. 93-5447

CHRISTOPHER DYESS

Petitioner,

versus

COMMISSIONER OF INTERNAL REVENUE

Respondent.

Appeal from a Decision of the United States Tax Court
(TC #28345-89)

(June 22, 1994)

Before JOLLY, WIENER, and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:*

In this suit brought against the Commissioner of Internal Revenue for redetermination of a tax deficiency and penalties for

*Local 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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

taxable year 1982, the principal issue is whether the tax court erred in finding that a certain transfer of real property was between two partnerships having over 80-percent common ownership, and thus, that the gain on the transaction should be treated as ordinary income. We have carefully considered the facts and legal arguments advanced by counsel in their briefs to this court and have reviewed the record. We are satisfied that, for the reasons cogently explained by the tax court in its opinion,¹ there is no reversible error. We can add nothing to the correct and comprehensive analysis of this case contained in the tax court's opinion. Instead of writing separately, then, we adopt the reasoning, findings, and conclusions expressed therein, incorporate it by reference, and annex a copy hereto.

AFFIRMED.

¹Appellant argued for the first time on appeal that his and his partner's ownership interests should not have been combined in determining the applicability of I.R.C. section 707(b)(2)(B). Because Appellant failed to raise this issue before the tax court, we need not consider it here. See Alford v. Dean Witter Reynolds, Inc., 975 F.2d 1161, 1163 (5th Cir. 1992). We do note, however, that the text of the applicable code section appears to refute Appellant's assertion.