

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

August 12, 2011

No. 10-60706
Summary Calendar

Lyle W. Cayce
Clerk

DSDBL, LIMITED, DDM MANAGEMENT, INCORPORATED; TAX
MATTERS PARTNER

Petitioner-Appellee

v.

COMMISSIONER OF INTERNAL REVENUE

Respondent-Appellant

Appeal from the Decision of the United States
Tax Court
TC No. 26567-06

Before WIENER, PRADO, and OWEN, Circuit Judges.

PER CURIAM:*

Respondent-Appellant, Commissioner of Internal Revenue has waived oral argument, conceded that the result of the judgment of the United States Tax Court (USTC) is dictated by binding precedent of this court, and acknowledged in his appellate brief that the instant appeal is being prosecuted “only to

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

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preserve the issue for possible Supreme Court review.” Under these circumstances, the judgment of the USTC is AFFIRMED. See Rule 47.6.