

The Burger Court Opinion Writing Database

Central Tablet Manufacturing Co. v. United States

417 U.S. 673 (1974)

Paul J. Wahlbeck, George Washington University
James F. Spriggs, II, Washington University
Forrest Maltzman, George Washington University



Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
THE CHIEF JUSTICE

June 6, 1974

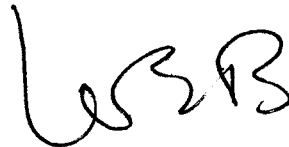
PERSONAL

Re: No. 73-593 - Central Tablet Mfg. Co. v. United States

Dear Harry:

I will be joining you, but if you don't mind
I'll defer until Bryon circulates.

Regards,

A handwritten signature in dark ink, appearing to be "WJB", written in a cursive, stylized script.

Mr. Justice Blackmun

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
THE CHIEF JUSTICE

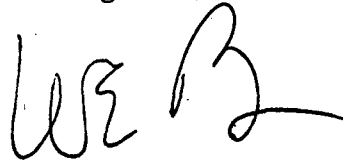
June 12, 1974

Re: 73-593 - Central Tablet Mfg. Co. v. U. S.

Dear Harry:

Please join me.

Regards,

A handwritten signature in dark ink, appearing to be "WE B", written in a cursive style.

Mr. Justice Blackmun

Copies to the Conference

73-593

Supreme Court of the United States

Memorandum

7/25, 1974

Haney

73-593

This apparently
is Egypt Circuit vs.

Libert Circuit

An unmarked &
has the right

4W

WOD


Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE WILLIAM O. DOUGLAS

April 2, 1974

Dear Lewis:

Would you like to write the dissent
in 73-593, Central Tablet v. United States?


William O. Douglas

Mr. Justice Powell

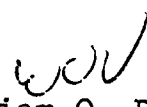
Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE WILLIAM O. DOUGLAS

June 13, 1974

Dear Byron:

Please join me in your dissent in No. 73-593, Central
Manufacturing Co. v. United States.


William O. Douglas

Mr. Justice White

cc: The Conference

NOT MOVED FROM THE COLLECTIONS OF THE MANUSCRIPT DIVISION, LIBRARY OF CONGRESS

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

June 13, 1974

RE: No. 73-593 Central Tablet Mfg. Co. v.
United States

Dear Byron:

Please join me in your dissenting opinion
in the above.

Sincerely,

Bill

Mr. Justice White

cc: The Conference

Copies to the Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE BYRON R. WHITE

June 3, 1974

MEMORANDUM FOR THE CONFERENCE

Re: No. 73-593 - Central Tablet Mfg. Co. v.
United States

In due course I shall circulate a dissent
in this case.


B.R.W.

To: The Chief Justice
Mr. Justice Douglas
✓ Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice Marshall
Mr. Justice Blackmun
Mr. Justice Rehnquist
Mr. Justice Burger

1st DRAFT

SUPREME COURT OF THE UNITED STATES: White, J.

No. 73-593

Circulated: 6-12-74

Recirculated: _____

Central Tablet Manufactur- } On Writ of Certiorari to the
ing Co., Petitioner, } United States Court of
v. } Appeals for the Sixth
United States. } Circuit.

[June —, 1974]

MR. JUSTICE WHITE, dissenting.

Ordinarily, gain from the sale of corporate property is taxed to the corporation. Under 26 U. S. C. § 337, however, gain from a sale or exchange occurring within 12 months after the adoption of a plan of liquidation is not recognized or taxed to the corporation. Concededly, the section applies to gain from involuntary conversions such as fire losses compensated by insurance, as long as the event qualifying as the sale or exchange takes place after, rather than before, the adoption of a plan of liquidation. As the Court indicates, the sole issue in this case is when the sale or exchange occurred.

Here, the fire took place on September 10, 1965. The plan of liquidation was not adopted until May 14, 1966. But the destroyed property was insured, and the insurance claims were finally negotiated, settled and paid after May 14, 1966. The Court holds that the sale or exchange took place at the time of the fire; for in its view, it was the fire that transformed "tangible property into a chose in action consisting of a claim for fire insurance proceeds..." *Ante*, p. 12.

I disagree. That the fire gave the company a claim under its insurance policies does not mean that the involuntary conversion qualifying as a sale or exchange took place at that moment. It is my view that such a

STYLISTIC CHANGES THROUGHOUT.
SEE PAGE 7 /

To: The Chief Justice
Mr. Justice Douglas
~~Mr. Justice Brennan~~
Mr. Justice Stewart
Mr. Justice Marshall
Mr. Justice Blackmun
Mr. Justice Powell
Mr. Justice Rehnquist

2nd DRAFT

SUPREME COURT OF THE UNITED STATES ^{White, J.}

No. 73-593

Circulated: _____

Recirculated: 6-17-

Central Tablet Manufactur-	}	On Writ of Certiorari to the	
ing Co., Petitioner,			United States Court of
v.			Appeals for the Sixth
United States.		Circuit.	

[June —, 1974]

MR. JUSTICE WHITE, with whom MR. JUSTICE DOUGLAS, MR. JUSTICE BRENNAN, and MR. JUSTICE POWELL join, dissenting.

Ordinarily, gain from the sale of corporate property is taxed to the corporation. Under 26 U. S. C. § 337, however, gain from a sale or exchange occurring within 12 months after the adoption of a plan of liquidation is not recognized or taxed to the corporation. Concededly, the section applies to gain from involuntary conversions such as fire losses compensated by insurance, as long as the event qualifying as the sale or exchange takes place after, rather than before, the adoption of a plan of liquidation. As the Court indicates, the sole issue in this case is when the sale or exchange occurred.

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I disagree. That the fire gave the company a claim under its insurance policies does not mean that the involuntary conversion qualifying as a sale or exchange

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

June 13, 1974

Re: No. 73-593 -- Central Tablet Manufacturing Co. v. U.S.

Dear Harry:

Please join me.

Sincerely,

T.M.
T.M.

Mr. Justice Blackmun

cc: The Conference

----- LEVEL THE COLLECTIONS OF THE MANUSCRIPT DIVISION, LIBRARY OF CONGRESS

SUPREME COURT OF THE UNITED STATES

Recirculated: _____

[June —, 1974]

Section 337 (a) of the Internal Revenue Code of 1954, 26 U. S. C. § 337 (a),¹ provides, with stated exceptions, for the nonrecognition of gain or loss from a corporation's "sale or exchange" of property that takes place during the 12-month period following the corporation's adoption of a plan of complete liquidation that is effectuated within that period. The issue in this case is whether, when a fire destroys corporate property *prior* to the adoption of a plan of complete liquidation, but the fire insurance proceeds are received after the plan's adoption,

"then no gain or loss shall be recognized to such corporation from the sale or exchange by it of property within such 12-month period."

26 U. S. C. § 337 (a).

April 9, 1974

No. 73-593 Central Tablet v. U.S.

Dear Bill:

In accord with our discussion, I talked to Byron today, and he will be glad to write the dissent in the above case.

I told Byron of your desire that he and I work this out between us.

Sincerely,

Mr. Justice Douglas

lfp/ss

cc: Mr. Justice White

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

June 2, 1974

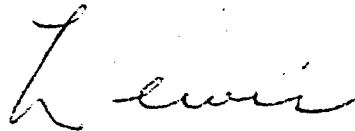
No. 73-593 Central Tablet v. U.S.

Dear Harry:

As you know, I voted "the other way" at Conference and still adhere to this view.

Accordingly, I will await circulation of the dissent.

Sincerely,



Mr. Justice Blackmun

lfp/ss

cc: The Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

June 13, 1974

No. 73-593 Central Tablet v. U.S.

Dear Byron:

Please join me in your dissent.

Sincerely,

Lewis

Mr. Justice White

lfp/ss

cc: The Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

June 11, 1974

Re: No. 73-593 - Central Tablet v. United States

Dear Harry:

Please join me.

Sincerely,

Wm

Mr. Justice Blackmun

Copies to the Conference