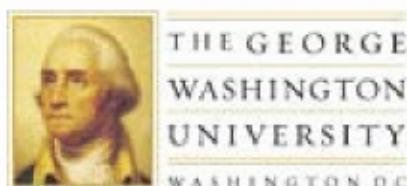


# The Burger Court Opinion Writing Database

*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,



Mr. Justice Blackmun

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

CHAMBERS OF  
THE CHIEF JUSTICE

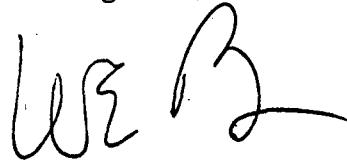
June 12, 1974

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

Dear Harry:

Please join me.

Regards,



Mr. Justice Blackmun

Copies to the Conference

73-593

Supreme Court of the United States

Memorandum

73-593  
1974

Henry

73-593

His appearance  
in Eighth Circuit is  
his Circuit  
on unlawful of  
law of law

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.

*WOD*  
William O. Douglas

Mr. Justice White

cc: The Conference

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

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

CHAMBERS OF  
JUSTICE POTTER STEWART

June 3, 1974

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

Dear Harry,

I am glad to join your opinion for the Court in  
this case.

Sincerely yours,

P.S.

Mr. Justice Blackmun

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.

For The Chief Justice  
Mr. Justice Douglas  
Mr. Justice Brennan  
Mr. Justice Stewart  
Mr. Justice Marshall  
Mr. Justice Blackmun  
Mr. Justice Powell  
Mr. Justice Rehnquist

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 73-593

Mr. Justice White, J.

Circulated: 6-12-74

Recirculated: \_\_\_\_\_

Central Tablet Manufacturing Co., Petitioner  
v.  
United States.

On Writ of Certiorari to the  
United States Court of  
Appeals for the Sixth  
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 1

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 Manufacturing Co., Petitioner, } On Writ of Certiorari to the  
*v.* } United States Court of  
United States. } Appeals for the Sixth  
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,

*J.T.M.*  
T. M.

Mr. Justice Blackmun

cc: The Conference

To: The Chief Justice  
Mr. Justice Douglas  
Mr. Justice Brennan  
Mr. Justice Harlan  
Mr. Justice Black  
Mr. Justice White  
Mr. Justice Marshall  
Mr. Justice F. Burton  
Mr. Justice F. M. Marshall

1st DRAFT

SUPREME COURT OF THE UNITED STATES *5/30/72*

No. 73-593

Recirculated: \_\_\_\_\_

Central Tablet Manufacturing Co., Petitioner, *v.* United States. On Writ of Certiorari to the United States Court of Appeals for the Sixth Circuit.

[June —, 1974]

MR. JUSTICE BLACKMUN delivered the opinion of the Court.

Section 337 (a) of the Internal Revenue Code of 1954, 26 U. S. C. § 337 (a),<sup>1</sup> 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,

<sup>1</sup> "§ 337. Gain or loss on sales or exchanges in connection with certain liquidations.

"(a) General rule.

"If—

"(1) a corporation adopts a plan of complete liquidation on or after June 22, 1954, and

"(2) within the 12-month period beginning on the date of the adoption of such plan, all of the assets of the corporation are distributed in complete liquidation, less assets retained to meet claims, "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

1fp/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.

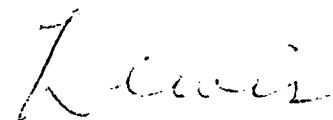
June 13, 1974

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

Dear Byron:

Please join me in your dissent.

Sincerely,



Mr. Justice White

1fp/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,

*W.W.*

Mr. Justice Blackmun

Copies to the Conference