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Commissioner v. Standard Life & Accident Insurance Co.

433 U.S. 148 (1977)

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



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

CHAMBERS OF
THE CHIEF JUSTICE

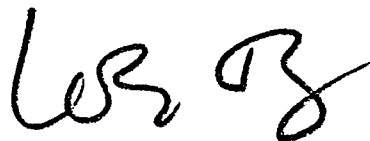
June 16, 1977

Re: 75-1771 - Commissioner of Internal Revenue
v. Standard Life & Accident Insurance Co.

Dear Byron:

Please show me as joining your concurring opinion.

Regards,



Mr. Justice White

Copies to the Conference

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

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

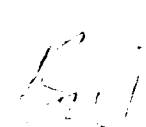
June 9, 1977

RE: No. 75-1771 CIR v. Standard Life & Accident

Dear John:

I agree.

Sincerely,



Mr. Justice Stevens

cc: The Conference

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

CHAMBERS OF
JUSTICE POTTER STEWART

June 13, 1977

75-1771, CIR v. Standard Life

Dear John,

I should appreciate your adding the following at the foot of your opinion for the Court in this case:

"MR. JUSTICE STEWART took no part in the consideration or decision of this case."

Sincerely yours,

P.S.
1.3.

Mr. Justice Stevens

Copies to the Conference

To: The Chief Justice
 Mr. Justice Brennan
 Mr. Justice Stewart
 Mr. Justice Marshall ✓
 Mr. Justice Blackman
 Mr. Justice Powell
 Mr. Justice Rehnquist
 Mr. Justice Stevens

From: Mr. Justice White

Circulated: 6-10-77

Recirculated: _____

No. 75-1771 - CIR v. Standard Life & Accident
 Insurance Co.

Mr. Justice White, concurring in the judgment.

Regretfully, I cannot join the Court's opinion. The Tax Court's position, which the Court of Appeals rejected, was mandated by the applicable Treasury regulations §§ 1.805-5(a)(4)(ii) and 1.809-4(a)(i). These regulations, invalidated by the Court of Appeals and now partially by this Court, appear to me to represent a wholly defensible construction of the statute, and we should not refuse to follow it simply because we prefer an alternative reading.

The first sentence of § 818(a) provides that all computations shall be pursuant to the accrual method of accounting or, to the extent permitted by the Secretary, under a combination of the accrual method and any other method permitted by the chapter. The second sentence of the section provides that except as provided in the first sentence, all computations shall be consistent with the method required by the annual statement provided by the National Association of Insurance Commissioners (NAIC). As the majority recognizes, under normal accrual accounting methods "unpaid premiums

To: The Chief Justice
 Mr. Justice Brennan
 Mr. Justice Black
 Mr. Justice Powell
 Mr. Justice Rehnquist
 Mr. Justice Souter
 Mr. Justice White

White
 1st DRAFT

From: Mr. Justice White

Circulated: _____

SUPREME COURT OF THE UNITED STATES

Circulated: 6-15-77

No. 75-1771

Commissioner of Internal Revenue, Petitioner,	} On Writ of Certiorari to the United States Court of Ap- peals for the Tenth Circuit,
v. Standard Life & Accident In- surance Company.	

[June —, 1977]

MR. JUSTICE WHITE, concurring in the judgment.

Regretfully, I cannot join the Court's opinion. The Tax Court's position, which the Court of Appeals rejected, was mandated by the applicable Treasury regulations §§ 1.805-5 (a)(4)(ii) and 1.809-4 (a)(i). These regulations, invalidated by the Court of Appeals and now partially by this Court, appear to me to represent a wholly defensible construction of the statute, and we should not refuse to follow it simply because we prefer an alternative reading.

The first sentence of § 818 (a) provides that all computations shall be pursuant to the accrual method of accounting or, to the extent permitted by the Secretary, under a combination of the accrual method and any other method permitted by the chapter. The second sentence of the section provides that *except as provided in the first sentence*, all computations shall be consistent with the method required by the annual statement provided by the National Association of Insurance Commissioners (NAIC). As the majority recognizes, under normal accrual accounting methods "unpaid premiums would simply be ignored"; because "the company has no legal right to them" they are mere "expectancies" and "could not be accrued." *Ante*, at 2. It is thus a departure from the accrual method of accounting to reflect any part of unpaid premiums in reserves, assets, or income. Under § 818, it seems to me

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

June 10, 1977

Re: No. 75-1771 - CIR v. Standard Life & Accident Ins. Co.

Dear John:

Please join me.

Sincerely,

T.M.
T.M.

Mr. Justice Stevens

cc: The Conference

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

June 13, 1977

Re: No. 75-1771 - Commissioner v. Standard Life
& Accident Insurance Co.

Dear John:

Please join me.

Sincerely,

H. A. B.

Mr. Justice Stevens

cc: The Conference

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

June 10, 1977

No. 75-1771 CIR v. Standard Life

Dear John:

Please join me.

Sincerely,

Lewis

Mr. Justice Stevens

lfp/ss

cc: The Conference

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

June 15, 1977

Re: No. 75-1771 - CIR v. Standard Life & Accident
Insurance Co.

Dear John:

Please join me.

Sincerely,



Mr. Justice Stevens

Copies to the Conference

To: The Chief Justice
 Mr. Justice Black
 Mr. Justice Stevens
 Mr. Justice White
 Mr. Justice Marshall
 Mr. Justice Blackmun
 Mr. Justice Powell
 Mr. Justice Rehnquist

Draft # 2

From: Mr. Justice Stevens

Circulated: JUN 8 1977

75-1771 CIR v. Standard Life & Accident Insurance Co.

Redirculated: _____

MR. JUSTICE STEVENS delivered the opinion of the Court.

In this case, for the second time this Term, we are required to construe the complex portion of the Internal Revenue Code concerning life insurance companies.^{1/} The issue in this case is the extent to which deferred and uncollected life insurance premiums are includable in "reserves," "assets," and "gross premium income," as those concepts are used in the Life Insurance Company Income Tax Act of 1959.^{2/}

Respondent qualifies for treatment as a life insurance company under this portion of the Code. Premiums on its policies are often payable in installments. If an installment is not paid when due, the policy will lapse, generally after a grace period. However, there is no legally enforceable duty to pay the premiums. An installment falling due between the end of the tax year and the policy's anniversary date is called a "deferred premium." In 1961, the most recent year in issue, respondent had \$1,572,763 of deferred premiums. Pet. 4a. An installment which is overdue at the end of the tax year is called an "uncollected premium" if the policy has not yet lapsed. In 1961, respondent had \$231,969 of uncollected premiums. Ibid. For convenience, we shall refer to both deferred and uncollected premiums simply as "unpaid premiums."

The amount charged the policyholder--the "gross premium"--

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States v. Detroit Lumber Co.*, 200 U.S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

COMMISSIONER OF INTERNAL REVENUE *v.* STANDARD LIFE & ACCIDENT INSURANCE CO.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE
TENTH CIRCUIT

No. 75-1771. Argued March 30, 1977—Decided June 23, 1977

The "net valuation" portion of unpaid life insurance premiums (the portion state law requires a life insurance company to add to its reserves), but not the "loading" portion (the portion to be used to pay salesmen's commissions, other expenses such as state taxes and overhead, and profits) *held* required to be included in a life insurance company's assets and gross premium income, as well as in its reserves, for purposes of computing its federal income tax liability, notwithstanding such computation necessitates making a fictional assumption that the "net valuation" portion has been paid but that the "loading" portion has not. This treatment of unpaid premiums is in accordance with § 818 (a) of the Internal Revenue Code of 1954 (as added by the Life Insurance Company Income Tax Act of 1959), which requires computations of a life insurance company's income taxes to be made "in a manner consistent with the manner required for purposes of the annual statement approved by the National Association of Insurance Commissioners," unless the NAIC procedures are inconsistent with accrual accounting rules, and to the extent that the Treasury Regulations require different treatment of unpaid premiums they are inconsistent with § 818 (a) and therefore invalid. Pp. 4-14.

525 F.2d 786, reversed and remanded.

STEVENS, J., delivered the opinion of the Court, in which BRENNAN, MARSHALL, BLACKMUN, POWELL, and REHNQUIST, JJ., joined. WHITE, J., filed an opinion concurring in the judgment, in which BURGER, C. J., joined. STEWART, J., took no part in the consideration or decision of the case.

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

From: Mr. Justice Stevens

Circulated: _____

Recirculated: _____ JUN 22 1977