

# The Burger Court Opinion Writing Database

*Thor Power Tool Co. v. Commissioner*  
439 U.S. 522 (1979)

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

January 11, 1979

No. 77-920 - Thor Power Tool Company v CIR

Dear Harry:

I join.

Regards,

WEB

Mr. Justice Blackmun

Copies to The Conference

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

CHAMBERS OF  
JUSTICE W. J. BRENNAN, JR.

January 8, 1979

RE: No. 77-920 Thor Power Tool Co. v. C.I.R.

Dear Harry:

Like John I am "no fan of tax cases" but this  
is everything he says it is and I am happy to join.

Sincerely,

*Bill*

Mr. Justice Blackmun

cc: The Conference

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

CHAMBERS OF  
JUSTICE POTTER STEWART

January 8, 1979

Re: No. 77-920 - Thor Power Tool Company v. Commissioner

Dear Harry:

I originally had considerable question about the inventory issue in this case. Your fine opinion has convinced me, however, and I am glad to join it.

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

January 9, 1979

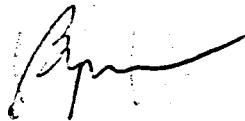
Re: No. 77-920 - Thor Power Tool Company  
v. CIR

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Dear Harry,

Please join me.

Sincerely yours,



Mr. Justice Blackmun

Copies to the Conference

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

CHAMBERS OF  
JUSTICE THURGOOD MARSHALL

January 8, 1979

Re: 77-920 - Thor Power Tool Co. v. CIR

Dear Harry:

Please join me.

Sincerely,

*J.M.*

T.M.

Mr. Justice Blackmun

cc: The Conference

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

From: Mr. Justice Blackmun

Circulated: 5 JAN 1979

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*1/10/79*

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## SUPREME COURT OF THE UNITED STATES

No. 77-920

Thor Power Tool Company,  
Petitioner,  
*v.*  
Commissioner of Internal  
Revenue. } On Writ of Certiorari to the  
United States Court of Appeals for the Seventh Circuit.

[January —, 1979]

MR. JUSTICE BLACKMUN delivered the opinion of the Court.

This case, as it comes to us, presents two federal income tax issues. One has to do with inventory accounting. The other relates to a bad debt reserve.

*The Inventory Issue.* In 1964, petitioner Thor Power Tool Co. (hereinafter sometimes referred to as the "taxpayer"), in accord with "generally accepted accounting principles," wrote down what it regarded as excess inventory to Thor's own estimate of the net realizable value of the excess goods. Despite this write-down, Thor continued to hold the goods for sale at original prices. It offset the write-down against 1964 sales and thereby produced a net operating loss for that year; it then asserted that loss as a carryback to 1963 under § 172 of the Internal Revenue Code of 1954, 26 U. S. C. § 172. The Commissioner of Internal Revenue, maintaining that the write-down did not serve to reflect income clearly for tax purposes, disallowed the offset and the carryback.

*The Bad Debt Issue.* In 1965, the taxpayer added to its reserve for bad debts and asserted as a deduction, under § 166 (c) of the Code, 26 U. S. C. § 166 (c), a sum that presupposed a substantially higher charge-off than Thor had experienced in immediately preceding years. The Commis-  
*rate*

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

CHAMBERS OF  
JUSTICE HARRY A. BLACKMUN

February 1, 1979

MEMORANDUM TO THE CONFERENCE

Re: No. 77-920 - Thor Power Tool Co. v. Commissioner

We have discovered one technical error in footnote 13 of the opinion in this case. In the tenth line of the footnote on page 14, the quoted words "30-day sale" should be "actual sale." I am assuming that no one will object to this correction, and I am asking Mr. Putzel to effectuate it.

*HAB*

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

CHAMBERS OF  
JUSTICE LEWIS F. POWELL, JR.

January 10, 1979

77-920 Thor Power Tool v. Commissioner

Dear Harry:

In view of the universal acclaim of your fine opinion (and I acknowledge it is an excellent piece of writing), I don't want to be a discordant note.

Accordingly I cheerfully join you, despite continuing reservations as to the inventory issue.

Sincerely,

Mr. Justice Blackmun

lfp/ss

cc: The Conference

Supreme Court of the United States

Washington, D. C. 20543

CHAMBERS OF  
JUSTICE WILLIAM H. REHNQUIST

January 8, 1979

Re: No. 77-920 Thor Power Tool Co. v. CIR

Dear Harry:

Please join me.

Sincerely,



Mr. Justice Blackmun

Copies to the Conference

Supreme Court of the United States

Washington, D. C. 20543

CHAMBERS OF  
JUSTICE JOHN PAUL STEVENS

January 8, 1979

Re: 77-920 - Thor Power Tool Co. v. CIR

Dear Harry:

As you know, I am no fan of tax cases. But I must confess that if I had known that this case was going to result in such a fine opinion, I would have voted to grant cert. I think you have written an exceptionally clear and useful opinion that will provide valuable guidance to lawyers and judges. Please join me.

Respectfully,



Mr. Justice Blackmun

Copies to the Conference