

# The Burger Court Opinion Writing Database

## *Jewett v. Commissioner*

455 U.S. 305 (1982)

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

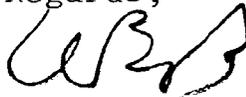
February 14, 1982

Re: 80-1614 - Jewett v. C.I.R.

Dear John:

I join.

Regards,



Justice Stevens

Copies to the Conference

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

CHAMBERS OF  
JUSTICE Wm. J. BRENNAN, JR.

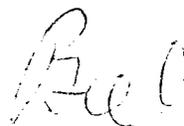
February 10, 1982

Re: Jewett v. Commissioner of Internal Revenue (80-1614)

Dear John:

I agree.

Sincerely,

A handwritten signature in cursive script, appearing to read "Stevens", is written in dark ink.

Justice Stevens

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

CHAMBERS OF  
JUSTICE BYRON R. WHITE

February 8, 1982

Re: 80-1614 - Jewett v. CIR

Dear John,

Please join me in your circulating  
draft opinion for *the Court*.

Sincerely yours,



Justice Stevens

Copies to the Conference

cpm

71A  
Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE THURGOOD MARSHALL

January 11, 1982

Re: No. 80-1614 - Jewett v. Commissioner of  
Internal Revenue

Dear John:

Please join me.

Sincerely,

*J.M.*

T.M.

Justice Stevens

cc: The Conference

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

CHAMBERS OF  
JUSTICE THURGOOD MARSHALL

January 29, 1982

Re: No. 80-1614 - Jewett v. Commissioner of  
Internal Revenue

Dear John:

I await the dissent.

Sincerely,

*T.M.*  
T.M.

Justice Stevens

cc: The Conference

HAB

December 14, 1981

Re: No. 80-1614 - Jewett v. Commissioner

Dear Bill and Sandra:

The three of us are in dissent or tentative dissent in this case. Unless one of you strongly wants to do so, I shall be glad to undertake a dissent.

Sincerely,

HAB

Justice Rehnquist

Justice O'Connor

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

CHAMBERS OF  
JUSTICE HARRY A. BLACKMUN

January 26, 1982

Re: No. 80-1614 - Jewett v. Commissioner

Dear John:

I shall undertake a dissent in this case. It may take me a little while.

Sincerely,



Justice Stevens

cc: The Conference

To: The Chief Justice  
Justice Brennan  
Justice White  
Justice Marshall

FEB 9 1982

1st DRAFT

**SUPREME COURT OF THE UNITED STATES**

No. 80-1614

GEORGE F. JEWETT, JR., ET UX., PETITIONERS, *v.*  
COMMISSIONER OF INTERNAL REVENUE

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF  
APPEALS FOR THE NINTH CIRCUIT

[February —, 1982]

JUSTICE BLACKMUN, dissenting.

I do not find this case as easy or as clear on behalf of the Government as a reading of the Court's opinion would lead one to believe. While the issue could be described as somewhat close, I conclude that the petitioners have much the better of the argument, and I would reverse the judgment of the Court of Appeals.

I

Margaret Weyerhaeuser Jewett, grandmother of petitioner George F. Jewett, Jr., died testate on January 14, 1939. At her death she was a resident of Massachusetts. She left a will which was duly admitted to probate in that Commonwealth.

By her will the decedent created a trust for the benefit of her husband, James R. Jewett, during his lifetime, and thereafter for the benefit of her son, George F. Jewett, and his wife, Mary, for their respective lives. On the death of the survivor of the three life beneficiaries, the trust estate is to be distributed to the then living children of George F. Jewett and to the then living issue of any deceased child of George F. Jewett, in equal shares by right of representation.

Petitioner George F. Jewett, Jr., was born April 10, 1927; he thus was not yet 12 years old when his grandmother died.

*Down*

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

CHAMBERS OF  
JUSTICE LEWIS F. POWELL, JR.

January 27, 1982

80-1614 Jewett v. Commissioner

Dear John:

Please join me.

Sincerely,



Justice Stevens

lfp/ss

cc: The Conference

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

CHAMBERS OF  
JUSTICE WILLIAM H. REHNQUIST

December 15, 1981

Re: No. 80-1614 Jewett v. Commissioner

Dear Harry:

As you might have guessed, I am delighted that you are willing to take on the dissent in this case.

Sincerely,



Justice Blackmun

cc: Justice O'Connor

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

CHAMBERS OF  
JUSTICE WILLIAM H. REHNQUIST

January 26, 1982

Re: No. 80-1614 Jewett v. Commissioner

Dear John:

I shall await Harry's dissent.

Sincerely,

*W*

Justice Stevens

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

CHAMBERS OF  
JUSTICE WILLIAM H. REHNQUIST

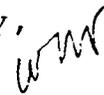
February 10, 1982

Re: No. 80-1614 Jewett v. Commissioner of Internal Revenue

Dear Harry:

Please join me in your dissenting opinion.

Sincerely,



Justice Blackmun

Copies to the Conference

*LPS*  
*I want to discuss*  
*TH*  
*LPS*  
*W*

To: The Chief Justice  
Justice Brennan  
Justice White  
Justice Marshall  
Justice Blackmun  
Justice Rehnquist  
Justice O'Connor

From: Justice Stevens  
Circulated: JAN 26 1982

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

1st DRAFT

**SUPREME COURT OF THE UNITED STATES**

No. 80-1614

GEORGE F. JEWETT, JR., ET UX., PETITIONERS *v.*  
COMMISSIONER OF INTERNAL REVENUE

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF  
APPEALS FOR THE NINTH CIRCUIT

[January —, 1982]

JUSTICE STEVENS delivered the opinion of the Court.

A trust beneficiary's refusal to accept ownership of property may constitute an indirect gift to a successor in interest subject to federal gift tax liability. 26 U. S. C. §§ 2501, 2511. Under Treasury Regulation 25.2511-1(c), however, such a refusal is not subject to tax if it is effective under local law and made "within a reasonable time after knowledge of the existence of the transfer." The petitioner in this case executed disclaimers of a contingent interest in a testamentary trust 33 years after that interest was created, but while it was still contingent. The narrow question presented is whether the "transfer" referred to in the regulation occurs when the interest is created, as the Government contends, or at a later time when the interest either vests or becomes possessory, as argued by petitioner.

Petitioner's grandmother, Margaret Weyerhaeuser Jewett, died in 1939 leaving the bulk of her substantial estate in a testamentary trust. Her will, executed in Massachusetts, provided that the trust income should be paid to petitioner's grandfather during his life, and thereafter to his parents. Upon the death of the surviving parent, the principal was to be divided "into equal shares or trusts so that there shall be one share for each child of my said son [petitioner's father] then living and one share for the issue then living represent-

*Stylistic changes only*

To: The Chief Justice  
 Justice Brennan  
 Justice Rehnquist  
 Justice Marshall  
 Justice Stewart  
 Justice White  
 Justice Black  
 Justice Powell  
 Justice O'Connor

From: Justice Stevens

*2nd Draft*  
~~1st DRAFT~~

Circulated: \_\_\_\_\_

Recirculated: FEB 19 '82

**SUPREME COURT OF THE UNITED STATES**

No. 80-1614

GEORGE F. JEWETT, JR., ET UX., PETITIONERS v.  
 COMMISSIONER OF INTERNAL REVENUE

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF  
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Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE SANDRA DAY O'CONNOR

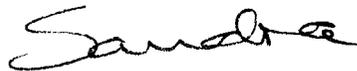
December 15, 1981

No. 80-1614 Jewett v. Commissioner

Dear Harry,

I shall await your dissent when the time comes.

Sincerely,



Justice Blackmun

cc: Justice Rehnquist

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

CHAMBERS OF  
JUSTICE SANDRA DAY O'CONNOR

January 26, 1982

No. 80-1614 Jewett v. Commissioner of  
Internal Revenue

Dear John,

I shall await Harry's dissent in the  
referenced case.

Sincerely,



Justice Stevens

Copies to the Conference



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

CHAMBERS OF  
JUSTICE SANDRA DAY O'CONNOR

February 10, 1982

No. 80-1614 Jewett v. Commissioner  
of Internal Revenue

Dear Harry,

Please join me in your dissent in the  
referenced case.

Sincerely,



Justice Blackmun

Copies to the Conference