GAMMILL v. COMMISSIONER
62 T.C. No. 70(1974).

Editor's Summary

Key Topics

COLLATERAL ESTOPPEL
• Requirements of privity and mutuality and adjudication on merits
• Change in legal climate or in controlling facts -

DISPOSAL WITH A RETAINED ECONOMIC INTEREST OUTRIGHT SALE--CAPITAL GAIN v. ORDINARY INCOME

Facts

Taxpayers were parties to *Crosby v. United States, 414* F; 2d 822 (5th Cir. 1969) [6 T.T.J. 148], in which the 1961, 1962, and 1963 income from timber sale contracts was held ineligible for capital gains treatment. Taxpayers brought this suit for refunds of taxes paid on the income under the same contracts for the years 1964 through 1969, claiming that the proceeds should be treated as long-term capital gains, resulting from either a disposal with a retained economic interest under section 631(b) or, in the alternative; an outright sale under section 1221 or 1231. The Commissioner moved for summary judgment on the ground that taxpayers were collaterally estopped from relitigating the issue of how the Proceeds from the contract should be treated. Taxpayers contended that collateral estoppel could not be invoked because, with respect to the sections involved in their claims, either the "legal atmosphere" or the controlling facts had changed.

Tax Court

[opinion not reprinted in T.T.J.; see official report]

Held: For the Commissioner. The court first examined the doctrine of collateral estoppel to determine whether the requirements for applying it were met in the instant case. The court found that the taxpayers were either parties to the previous suit or their privies and that the ultimate factual issues involved in the present case had been litigated on their merits. The court further found that the Commissioner and the United States were in privity and that mutuality of estoppel, a principle adhered to by the tax court, existed. With respect to taxpayers' contention that the legal climate had changed, the court ruled that cases dealing with sand and gravel contracts in which a retained economic interest was found despite a minimum payment schedule not attached to production did not affect cases involving timber contracts. Finally, the court held that taxpayers' claim that the prior judgment had involved incorrect findings of fact did not constitute evidence of a change in controlling facts, Accordingly, the court granted the Commissioner's motion for summary judgment.