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4-5-2006

Lattera v. Commissioner IRS

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UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 04-4721

GEORGE LATTEA; ANGELINE LATTEA,

Appellants

v.

COMMISSIONER OF INTERNAL REVENUE

Appeal from the Decision of the
United States Tax Court
Docket No. 03-4269
Tax Court Judge: Honorable Juan F. Vasquez

Argued January 9, 2006

Before: BARRY and AMBRO, Circuit Judges,
and DEBEVOISE,* District Judge

(Opinion filed February 14, 2006)

ORDER AMENDING PUBLISHED OPINION

AMBRO, *Circuit Judge*

IT IS NOW ORDERED that the published Opinion in the above case filed February 14, 2006, be amended as follows:

*Honorable Dickinson R. Debevoise, Senior District Court Judge for the District of New Jersey, sitting by designation.

On page 5, sixth line in the first paragraph, insert a comma between “that” and “when”.

On page 5, seventh line in the first paragraph, replace “that sale” with “the sale”.

On page 19, second line up from the bottom of the page, delete “stocks or” and “both of” so that the parenthetical sentence reads “(This can be seen in the sale of bonds, which produce ordinary income, but the sale of which is treated as capital gain.)”.

On page 20, first line on the page, change “concept” to “distinction”, so that the phrase reads: “Sinclair explains the distinction”.

On page 20, first paragraph, lines 8–10, delete:
“; *see also Rhodes’ Estate v. Comm’r*, 131 F.2d 50, 50 (6th Cir. 1942) (*per curiam*) (holding that a sale of dividend rights is taxable as ordinary income).”

and, in its place, insert:
“(Of course, in the wake of dividend tax reform, stock dividends are now taxed as capital gains. I.R.C. § 1(h)(11).)”

Thus, lines 8–10 will now read: “payments. *Id.* (Of course, in the wake of dividend tax reform, stock dividends are now taxed as capital gains. I.R.C. § 1(h)(11).) For the right to earn”.

By the Court,

/s/ Thomas L. Ambro, Circuit Judge

Dated: April 5, 2006