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IRS Drops Case in \$2.7 Million Captive Insurance Clash (Correct)

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The IRS can drop its \$2.7 million case against a Delaware egg farm as part of a captive insurance dispute because the agency is unlikely to prevail, the U.S. Tax Court said.

The case stems from notices of deficiency and penalties the IRS issued to Puglisi Egg Farms of Delaware totaling over \$2.7 million for its 2015, 2016, and 2018 tax years. The court issued two orders Friday entering the IRS's concessions and finding that Puglisi is liable only for a deficiency of \$18,587 for its 2015 tax year.

The IRS initially determined that the farm's captive insurance arrangement with Oxford Insurance Company LLC, which enabled lower tax rates by keeping premiums under \$2.3 million, lacked economic substance, and that Puglisi didn't establish that the expenses claimed for the insurance arrangement were necessary to their business. The IRS has raised concerns that similar captive insurance arrangements can lead to tax avoidance. Puglisi challenged the denied deductions last year.

The IRS in May filed a motion for entry of decision with the Tax Court, offering to concede on income adjustments and penalties that hadn't been settled. Puglisi opposed the move, arguing that the IRS was seeking to drop the deficiencies to avoid an adverse ruling.

The Tax Court ruled last month that the IRS could concede its case, finding that the case's outcome is known and the IRS made clear its intention to concede without delays. The court also noted the intensive discovery and trial that was likely to ensue, despite the "undisputed outcome."

The IRS commissioner can't be criticized "for conceding cases in which his position is weaker in order to devote his resources to litigating cases that are more promising for his position," Judge David Gustafson said in his Oct. 29 order.

The case is [Puglisi v. Commissioner](#), T.C., No. 4796-20, 11/5/21.



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Reporter



Documents

Decision
[Order - Oct. 29](#)

Document
[Order on IRS Concession - 2015 and 2016](#)

[Order on IRS Concession - 2018](#)

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