

Letting Firefighters Raze House Isn't Charity, Court Says

By Richard Rubin - Jun 27, 2012

A Virginia couple who donated their house to local firefighters for a training exercise can't deduct the property's value from their federal income taxes, a divided U.S. Tax Court ruled today.

Upen and Avanti Patel gave a house they bought and planned to demolish to the Fairfax County Fire and Rescue Department. The firefighters destroyed it, and the Patels deducted \$92,865 from their 2006 taxes.

The [Internal Revenue Service](#) challenged the deduction and the Tax Court sided with the government, deciding that the Patels hadn't donated their full interest in the property.

"The fire department does not acquire the right to eject the landowner from the building and cannot force the landowner to allow the destruction of the building should he change his mind before the house has been destroyed," Judge Howard Dawson wrote. "The fire department has acquired a mere revocable license that does not vest any property interest in the fire department."

Seven other judges agreed with Dawson's opinion and one other concurred in the result. Eight judges dissented.

"The writing's on the wall that these are not favored," said Robert Wood, a tax lawyer at Wood LLP in [San Francisco](#).

Court Split

Paul Caron, a law professor at the University of Cincinnati, said in an e-mail that the split on the Tax Court indicates that the issue "still burns brightly."

Caron added that the details of the decision, which turned on aspects of Virginia property law, may make it difficult to predict how courts will consider similar cases in other states.

In the dissent, Judge Joseph Gale argued that the Patels' interests in the house were destroyed in the fire.

"All substantial property interests of an owner in his structure are eliminated when the structure is demolished," he wrote.

Instead, he wrote, the value of the contribution should be determined by looking at the value of the property compared to the benefit the Patels received because they didn't pay for demolition.

The Tax Court in [Washington](#) hears disputes from taxpayers about IRS findings.

The case is Upen G. Patel and Avanti D. Patel v. Commissioner of Internal Revenue, 11694-09.

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