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THE TAX LAWYER

Jan. 27 2012 — 6:13 am

IRS Wins \$62M GE Tax Shelter Case

You would expect a tax shelter designed to save General Electric \$62 million in taxes to be complicated. You would be right. The Second Circuit upheld a ruling against [General Electric's](#) financing arm that charged the conglomerate with understating its income. See [TIFD III-E Inc. v. United States](#). The court said the IRS was right and IRS penalties were correctly applied. See [General Electric Loses IRS Appeal on Dutch Bank Tax Benefits](#).



Image via cnbc

GE probably doesn't want more bad press after reports showed it paid *no* federal income tax in 2010. See [GE's Strategies Let It Avoid Taxes Altogether](#). The company got a [tax credit](#) of more than \$3 billion. The government accused GE's Castle Harbour unit of sheltering more than \$300 million of income between 1993 and 1998 by partnering with two foreign banks that aren't subject to U.S. tax. See [U.S. Appeals Court Upholds Tax Ruling Against GE Capital](#).

At its root, this case involved a complex partnership allocating 98% of the income derived from aircraft leases to two foreign banks. The IRS attacked the structure arguing that: (1) the overall arrangement was a sham, and (2) the foreign banks were not *really* partners, and really held secured loans.

The first court held against the IRS saying the deal was legit and wasn't a sham. But the Second Circuit Court of Appeals reversed and held for the IRS. These banks weren't **real** equity partners, said the appellate court. That meant this deal was all smoke and mirrors. After all, the foreign banks didn't have a real economic stake.

But the Second Circuit remanded the case since the district court hadn't reached the taxpayer's alternative argument that this could be viewed as a family partnership. On remand, the district court still thought the deal was legit and that the banks were partners. The IRS appealed again, so back to the Second Circuit it went.

Again, the appellate court said it was a sham. These foreign banks weren't partners, the IRS was right to say so, and the IRS was correct in imposing penalties, the court ruled. Sure, the banks had an **interest** in this complicated deal, but it was debt, not equity. The banks were not real equity owners of anything.

The [Justice Department](#) said the arrangement allowed the GE aircraft-leasing unit to receive most of the income from its business while 98% of its taxable income was allocated to foreign banks not subject to U.S. income taxes. It was too good to be true.

For more, see:

[Don't Look For \(Tax\) Shelter Under Wells Fargo Wagon](#)

[How Bad Is Your Tax Shelter?](#)

[Seeking Shelter In Tax Shelters?](#)

[IRS Wins Tax Shelter Trifecta](#)

[Trafficking In Tax Shelters Can Mean Jail](#)

["DAD" Tax Shelter Is A Deadbeat](#)

[Tax Shelters Not Über Alles](#)

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