

**TRANSCRIPT  
OF  
RECORD**

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TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1959

No. 603-3

KARL F. KNETSCH, ET AL., PETITIONERS,

vs.

UNITED STATES.

ON WRIT OF CERTIORARI TO THE UNITED STATES  
COURT OF APPEALS FOR THE NINTH CIRCUIT

PETITION FOR CERTIORARI FILED DECEMBER 21, 1959  
CERTIORARI GRANTED FEBRUARY 23, 1960

No. 16356

United States  
Court of Appeals  
for the Ninth Circuit

KARL F. KNETSCH and EVA FAY KNETSCH,  
Appellants,

vs.

UNITED STATES OF AMERICA,  
Appellee.

Transcript of Record

Appeal from the United States District Court, Southern District  
of California, Central Division

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in *italic*; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in *italic* the two words between which the omission seems to occur.]

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\* Page numbers appearing at bottom of page of Original Transcript of Record.

United States District Court for the Southern  
District of California

Civil Action No. 577-57 WB

CARL F. KNETSCH and EVA FAY KNETSCH,  
Plaintiffs,

vs.

UNITED STATES OF AMERICA,  
Defendant.

COMPLAINT

Income Tax

Plaintiffs, appearing by their attorney, Nola Mc-  
Lane, for their complaint against defendant, re-  
spectfully show to this Court, and upon information  
and belief allege as follows:

First Count

1.

This is an action arising under the Internal  
Revenue laws of the United States as hereinafter  
more fully appears. The jurisdiction of this Court  
is based upon Title 28, Section 1346 (a) (1) of the  
United States Code, Act of June 25, 1948, c. 646,  
62 Stat. 689, 933 as amended by the Act of July  
30, 1954, c. 648, sec. 1, 68 Stat. 589. [2]

2.

This action is brought for the recovery of \$129,-  
480.39 of income tax collected from plaintiffs for  
the calendar year of 1953 plus interest thereon at



the rate of 6% per annum from the date of payment.

3.

Plaintiffs are now, and at all times hereinafter mentioned, were residents and citizens of the State of California, County of Los Angeles, District of Southern California.

4.

On March 15, 1954, plaintiffs filed with the District Director of Internal Revenue in Los Angeles, California, an amended joint Federal income tax return for the taxable year of January 1, 1953 through December 31, 1953. The said amended joint Federal income tax return for the taxable year of 1953 showed a net taxable income of \$59,290.08 and a tax due of \$28,104.60.

5.

The said sum of \$28,104.60 in Federal income tax reported due in plaintiffs' amended return for 1953 for the period January 1, 1953 through December 31, 1953, referred to in Paragraph 4, was paid on or before the dates required by law.

6.

On June 29, 1956, the Commissioner of Internal Revenue issued to plaintiffs a statutory notice of deficiency in Federal income tax asserting a deficiency of \$113,684.48 for the year 1953. The entire [3] amount of the asserted deficiency of \$113,684.48 resulted from the disallowance of the sum of \$143,465.00 which had been claimed as an interest de-

duction by plaintiffs on their joint Federal income tax return for the year 1953.

7.

The disallowance of the sum of \$143,465.00 claimed as interest by plaintiffs on their joint Federal income tax return for the year 1953 was explained in the said statutory notice of deficiency as follows:

"It is held that the amounts aggregating \$143,465.00 paid by you on the single-premium 30-year maturity deferred annuity savings bonds issued by the Sam Houston Life Insurance Company and claimed as an interest deduction in your return for the year 1953, are not interest within the meaning of section 23 (b) of the Internal Revenue Code of 1939 and are not deductible for Federal income tax purposes."

A true and correct copy of the statutory notice of deficiency issued to plaintiffs is attached herewith and made a part hereof as Exhibit A.

8.

On July 19, 1956, plaintiffs paid to the District Director of Internal Revenue in Los Angeles, California, the said asserted deficiency of \$113,684.48 alleged to be due according to the statutory notice of deficiency of June 29, 1956, attached hereto as Exhibit A. On August 3, 1956, plaintiffs paid to the District Director of Internal Revenue in Los Angeles, California, the sum of \$15,795.91 of interest due on the said asserted deficiency of \$113,684.48.



9.

Thereafter, on October 8, 1956, plaintiffs filed on a United States Treasury Form 843, a claim for refund in Federal income taxes in the amount of \$129,480.39 (\$113,684.48 of asserted deficiency and \$15,795.91 of interest paid thereon) plus interest, for the taxable period January 1, 1953, through December 31, 1953. A true and correct copy of that claim for refund is attached hereto and made a part hereof as Exhibit B.

10.

A period in excess of six months has elapsed since the claim for refund described in Paragraph 9 was filed, and no action has been taken by the Commissioner of Internal Revenue.

11.

On December 11, 1953, plaintiff Carl F. Knetsch paid interest in the amount of \$143,465.00 to the Sam Houston Life Insurance Company.

12.

Plaintiffs are entitled to the deduction of \$143,465.00 claimed on their amended joint Federal income tax return filed on March 15, 1954, for the taxable year of 1953.

13.

The failure of the Commissioner to act upon the said claim for refund allowing plaintiffs the deduction claimed for interest in the sum of \$143,465.00 is erroneous, illegal, and without warrant in law.

14.

By reason of the facts set forth in this First Count, there is now [5] due and owing from defendant to plaintiffs the sum of \$129,480.39 with interest thereon as provided by law. Such sum was erroneously and illegally collected from plaintiffs. Notwithstanding plaintiffs' claim for refund of \$129,480.39, no part of the amount has been paid or credited and there are no offsets or credits against the same.

Wherefore, plaintiffs demand judgment against defendant in the sum of \$129,480.39 plus interest according to law together with costs.

Second Count

15.

This is an action arising under the Internal Revenue laws of the United States as hereinafter more fully appears. The jurisdiction of this Court is based upon Title 28, Section 1346 (a) (1) of the United States Code, Act of June 25, 1948, c. 646, 62 Stat. 689, 933 as amended by the Act of July 30, 1954, c. 648, sec. 1, 68 Stat. 589.

16.

This action is brought for the recovery of \$128,458.02 of income tax collected from plaintiffs for the calendar year of 1954 plus interest thereon at the rate of 6% per annum from the date of payment.

17.

Plaintiffs are now, and at all times hereinafter

mentioned, were residents and citizens of the State of California, County of Los Angeles, District of Southern California.

18.

On or before March 15, 1955, plaintiffs filed with [6] the District Director of Internal Revenue in Los Angeles, California, a joint Federal income tax return for the taxable year of January 1, 1954, through December 31, 1954. The said joint Federal income tax return for the taxable year of 1954 showed a net taxable income of \$83,123.78 and a tax due of \$40,863.16.

19.

The said sum of \$40,863.16 in Federal income tax reported due in plaintiffs' return for 1954 for the period January 1, 1954 through December 31, 1954, referred to in Paragraph 18 was paid on or before the dates required by law.

20.

On June 29, 1956, the Commissioner of Internal Revenue issued to plaintiffs a statutory notice of deficiency in Federal income tax asserting a deficiency of \$119,613.20. The entire amount of the asserted deficiency of \$119,613.20 resulted from the disallowance of the sum of \$147,105.00 which had been claimed as an interest deduction by plaintiffs on their joint Federal income tax return for the year 1954.

21.

The disallowance of the sum of \$147,105.00 claimed as interest by plaintiffs on their joint Fed-

eral income tax return for the year 1954 was explained in the said statutory notice of deficiency as follows:

"It is held that the amounts aggregating \$147,105.00 paid by you on the single-premium 30-year maturity deferred annuity savings bonds issued by the Sam Houston Life Insurance Company and claimed as an interest deduction in your [7] return for the year 1954, are not interest within the meaning of section 163 of the Internal Revenue Code of 1954 and are not deductible for Federal income tax purposes."

A true and correct copy of a statutory notice of deficiency issued to plaintiffs is attached herewith and made a part hereof as Exhibit A.

22.

On July 19, 1956, plaintiffs paid to the District Director of Internal Revenue in Los Angeles, California, the said asserted deficiency of \$119,613.20 alleged to be due according to the statutory notice of deficiency of June 29, 1956 attached hereto as Exhibit A. On August 3, 1956, plaintiffs paid to the District Director of Internal Revenue in Los Angeles, California, the sum of \$8,844.82 of interest due on the said asserted deficiency of \$119,613.20.

23.

Thereafter, on October 8, 1956, plaintiffs filed on a United States Treasury Form 843 a claim for refund in Federal income taxes in the amount of

10 Karl F. Knetsch and Eva Fay Knetsch

\$128,458.02 (\$119,613.20 of asserted deficiency and \$8,844.82 of interest paid thereon) plus interest, for the taxable period January 1, 1954 through December 31, 1954. A true and correct copy of that claim for refund is attached hereto and made a part hereof as Exhibit C.

24.

A period in excess of six months has elapsed since the claim for refund described in Paragraph 23 was filed, and no action has been taken by the Commissioner of Internal Revenue. [8]

25.

During December of 1954, plaintiff Carl F. Knetsch paid interest totaling \$147,105.00 to the Sam Houston Life Insurance Company.

26.

Plaintiffs are entitled to the deduction of \$147,105.00 claimed on their joint Federal income tax return filed on or before March 15, 1955, for the taxable year of 1954.

27.

The failure of the Commissioner to act upon the said claim for refund allowing plaintiffs the deduction claimed for interest in the sum of \$147,105.00 is erroneous, illegal, and without warrant in law.

28.

By reason of the facts set forth in this Second Count, there is now due and owing from defendant to plaintiffs the sum of \$128,458.02 with interest thereon as provided by law. Such sum was erroneously and illegally collected from plaintiffs. Not-

vs. United States of America

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withstanding plaintiffs' claim for refund of \$128,458.02, no part of the amount has been paid or credited and there are no offsets or credits against the same.

Wherefore, plaintiffs demand judgment against defendant in the sum of \$128,458.02 plus interest according to law together with costs.

McLANE & McLANE,

/s/ By NOLA McLANE,

Attorneys for Plaintiffs. [9]

EXHIBIT "A"

U. S. Treasury Department, Internal Revenue Service, Regional Commissioner, 1250 Subway Terminal Building, 417 South Hill Street, Los Angeles 13, California.

In Reply Refer to Ap:LA:AA-RR (COP) 90-D.

Mr. Karl F. Knetsch and Jun 29 1956  
Mrs. Eva Fay Knetsch  
Husband and Wife  
3532 West 80th Street  
Inglewood, California

Dear Mr. and Mrs. Knetsch:

You are advised that the determination of your income tax liability for the taxable years ended December 31, 1953 and December 31, 1954 discloses an aggregate deficiency of \$233,297.68, as shown in the statement attached.

In accordance with the provisions of existing internal revenue laws, notice is hereby given of the deficiency mentioned.