High Court expected to rule on Portland case

A decision is expected in June on the Portland ( Ore.) Golf Club case before the U.S. Supreme Court.

On April 17, the rights of tax-exempt private clubs to consistent treatment on the taxation of investment income were argued before the U.S. Supreme Court by National Club Association tax counsel Leonard J. Henze Jr. He was assisted by Allen Bash, counsel for Portland Golf Club, the petitioner.

The NCA said the culmination of a nine-year struggle with the IRS, the Portland case "will determine the level of fairness granted to private clubs in the taxation of investment income," as embodied in Revenue Ruling 81-69.

In enforcing Rev. Rul. 81-69, the IRS contended that tax exempt clubs must show a profit motive before they can be allowed to offset losses from certain non-member activities, after allocation of overhead, against taxable investment income.

The IRS contends that most unrelated business does not demonstrate a profit motive, and therefore clubs should be taxed for investment income as if there were no countering losses.

"We have fought against this unjust interpretation since it surfaced in 1981," said NCA President George Squibb. Henze asserted that many large, for-profit corporations never pay taxes as the result of paper losses but, nonetheless, stay in business by making real gains.

Henze implored the High Court to use, with clubs, the same economic profit standards applied for profit corporations.

Henze further explained applicable Tax Code provisions, pointing out that the IRS’s interpretation, embodied in Rev. Rul. 81-69, was not supported by the text of the Code.

"Congress is free to change this law, but neither the IRS nor this court have that power," Henze said. "At the very least, clubs deserve the same freedom as other taxpayers to show they have made a real financial profit, even though for tax purposes they might show a loss."

Henze argued there are conflicts between and among federal circuits. "The financial planning of clubs is in limbo. Our member clubs ask the court to settle this issue, telling them in dependable, absolute terms how the tax laws will be applied to their activities."

The government’s attorney, Clifford M. Sloan, argued that the Portland Club had failed to demonstrate a profit motive, which, in the IRS’s view, is required by law.

Vegas

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tent, by the amount of treated sewage it returns returning effluent to the river, another 180,000 River allocation could last into the next cen-

sation.

returning it to the Colorado River, could affect using that effluent on courses, rather than the Southwest Golf Course Superintendents association and superintendent at 54-hole the use of treated water," Gans said.

southern Nevada’s future drinking water allo-

ty proposed developments ready to drink that tance district’s sewage treatment plant.

There is one course, Emerald River, in Laughlin, a tourist town located 90 miles south of Las Vegas.

"Las Vegas’ growth looks slow compared to Laughlin," said Gans.

Laughlin is using two-thirds of its 10,000 tax-exempt allocation. The remaining third is already promised to developers. That means the city is, in effect, out of water for future growth. Gans is hopeful more water may be made available. But there is a waiting list of proposed developments ready to drink that down.

There is one course, Emerald River, in Laughlin. It is paying $1.19 per 1,000 gallons for water, said Gans. But it can tap into effluent supplied by the sanitation district’s $2 million treatment plant, scheduled to open in mid-1992.

"There’s a lot of room for more courses in Laughlin. It looks like the CRC will take the same stand there on effluent," said Gans.

Gans said he realizes the CRC is between a rock and a hard place in allocating water. "Rapid growth is placing a tremendous demand on a very small, finite supply," he said.

"Yet current policy allows a gallon of water to be removed from the river only if a gallon of Colorado River water is put back in."

Other possibilities for getting water to the rapidly developing Las Vegas valley are being considered.

The Resource Conservation Group, made up of representatives of the seven states contiguous to the Colorado River basin, has discussed ways of getting water from the water-rich/cash-poor upper basin states (Wyoming, Colorado, New Mexico and Utah) to the water-poor/cash-rich lower basin states (Nevada, Arizona and California).

"Getting an allocation change from the Department of the Interior is possible, but not probable," said Gans.

Building a water pipeline to import 300,000 acre-feet yearly from Nevada’s northern counties to Clark County is also being considered. But the estimated cost of the 10-year project is $1.5 billion.

For now, conservation and effluent seem the solution, for both existing and new courses, according to water district conservation manager Linda Littell.

"Hopefully courses can reduce the turfgrass areas they have to irrigate," she said. "Their irrigation systems are already magnificently efficient, much more so than our residential users."

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