

946 F.2d 1572, *; 1991 U.S. App. LEXIS 24782, **;
68 A.F.T.R.2d (RIA) 5819

1 of 2 DOCUMENTS

**ELLEN O. PITTS, Plaintiff-Appellant, v. UNITED STATES OF AMERICA,
Defendant-Appellee**

No. 90-1709

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

946 F.2d 1572; 1991 U.S. App. LEXIS 24782; 68 A.F.T.R.2d (RIA) 5819

**June 7, 1990, Argued
October 18, 1991, Decided**

PRIOR HISTORY: [**1] Appeal from the United States District Court for the Western District of Virginia, at Roanoke. James C. Turk, Chief District Judge. CA-89-255-R.

DISPOSITION: Reversed.

COUNSEL: Argued: Harry Franklin Bosen, Jr., Harry F. Bosen, Jr., P.C., Salem, Virginia, for Appellant.

Charles Edward Brookhart, Tax Division, United States Department of Justice, Washington, District of Columbia, for Appellee.

On Brief: David S. De Jong, Stein, Sperling, Bennett, De Jong, Driscoll, Greenfeig & Metro, P.A., Rockville, Maryland, for Appellant.

Shirley D. Peterson, Assistant Attorney General, Gary R. Allen, Tax Division, United States Department of Justice, Washington, District of Columbia; John Perry Alderman, United States Attorney, Roanoke, Virginia, for Appellee.

JUDGES: Widener and Sprouse, Circuit Judges, and Tilley, United States District Judge for the Middle District of North Carolina, sitting by designation.

OPINION BY: PER CURIAM

OPINION

[*1573] Pursuant to our order of certification to the Supreme Court of Virginia filed February 4, 1991, *946 F.2d 1569*, we certified to the Supreme Court of Virginia the following question:

"Whether the notes received by George and Ellen Pitts, husband and wife, in exchange for real property held as tenants by the entireties, also [**2] are held as tenants by the entireties, although the notes contain no language indicating a right of survivorship."

The Supreme Court of Virginia, in its case No. 910186 dated September 20, 1991, *242 Va. 254, 408 S.E.2d 901* has answered the certified question in the affirmative.

Accordingly, following the said opinion of the Supreme Court of Virginia, it is our opinion that the Internal Revenue Service may not levy on any interest of George Pitts in the notes representing the proceeds of sale of such real estate formerly owned by George and Ellen Pitts as is involved in this case.

The judgment of the district court is accordingly
REVERSED.