

Judge Overturns IRS Gift-Tax Ruling On Campaign Funds

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A federal judge yesterday overruled the 1972 Internal Revenue Service ruling which permitted donors of large campaign contributions to avoid paying gift tax by dividing them into \$3,000 portions.

Yesterday's ruling by U.S. District Court Judge June Green was anticipated May 13, when she announced at the close of oral arguments her intention to rule for the plaintiffs, Tax Analysts and Advocates, a Washington-based tax reform group.

Unless a stay is granted pending appeal, the immediate effect of the ruling is to make dummy fund-raising committees useless, since contributors will no longer gain any tax advantage from splitting their donations.

The broader significance of the decision, according to tax experts, is that it grants a public interest group whose own tax treatment is not at issue the standing in court to challenge the way the IRS is enforcing the tax laws with regard to other taxpayers. Generally, courts have held that a citizen may take the IRS to court only to contest his own tax liability.

In a 1971 case upheld by the Supreme Court, *Green vs. Connally*, the court permitted a group of black citizens to challenge tax exemptions for schools practicing racial discrimination.

However, yesterday's ruling by Judge Green, if upheld, would broaden the area of possible citizen challenges to IRS rulings.

In ruling for Tax Analysts and Advocates, Judge Green cited a 1973 Supreme Court decision that a group of law students had sufficient standing—because of their general interest in the environment—to challenge an Interstate Commerce Commission ruling on recycled materials.

The judge also referred to two May tax cases in which the Supreme Court threw out

challenges to IRS on the ground that citizens lack standing to restrain the collection of taxes by IRS. But, said Judge Green, in the present case, "Tax Analysts and its members do not seek to restrain the enforcement of any tax whatsoever. Tax Analysts seeks to force the IRS to collect a tax which is due, but which has allegedly been

avoided by illegal revenue ruling."

The IRS had no comment on Judge Green's order, which is not retroactive.

The 1972 gift-tax ruling which the order overturns was first requested by the White House, for the Committee for the Re-election of the President. At the time, career IRS officials said they were not notified of the ruling until after it had been drafted by the Internal Revenue Service general counsel.

In a clarification issued last December, the IRS announced that multiple fund-raising committees funneling money to the same candidate must exist "in fact rather than in form" for the gift-tax exclusion to apply. Reportedly, Chicago insurance executive W. Clement Stone, President Nixon's largest campaign contributor in 1972, has been under investigation by IRS to determine whether he owes any gift tax.

Contradictory bills on the gift tax are now pending in Congress. Ten senators have introduced a bill which would have the same effect as Judge Green's ruling. However, a measure before the House Ways and Means Committee would exempt all political contributions from the gift tax.