

Assigned
UNITED STATES TAX COURT
WASHINGTON, DC 20217

Rm

SHORTHORN GENETIC ENGINEERING)
1984-A, J.V., EDWIN G. MCGIFFORD,)
TAX MATTERS PARTNER,)

Petitioner,)

v.)

Docket No. 9753-94.)

COMMISSIONER OF INTERNAL REVENUE,)

Respondent)

ORDER OF DISMISSAL AND DECISION

On June 9, 2011, respondent filed a Motion to Dismiss for Lack of Prosecution. Respondent moves that a decision be entered consistent with a Stipulation of Settled Issues filed November 23, 2004, and opinions of this Court in several similar cattle and sheep partnerships. In the motion respondent informs the Court that (1) Edwin G. McGifford died on September 20, 2010, (2) the remaining partners of Shorthorn Genetic Engineering 1984-A, J.V., were notified that Edwin G. McGifford is no longer eligible to serve as tax matters partner, and (3) none of the remaining partners have agreed to serve as the tax matters partner.

On August 11, 2011, the Court issued an Order directing that any objection to the granting of the motion and entry of a decision as requested by respondent be filed by September 8, 2011, and include a statement as to whether the partner filing the objection is willing to be appointed tax matters partner so as to proceed with this litigation. The parties were advised that if no objection was received the Court would be inclined to grant respondent's motion and enter a decision as requested by respondent. No objection has been received.

Shorthorn Genetic Engineering 1984-A, J.V., is a partnership subject to the provisions of section 6221¹ et seq., which provides that the tax treatment of items of partnership income, loss, deductions, and credits shall be determined at the partnership level. Under the statutory provisions set forth in section 6621 et seq., the presence of a tax matters partner during litigation before this Court is essential to the fair, efficient, and consistent disposition of partnership

¹ Section references are to sections of the Internal Revenue Code, as amended.

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proceedings. The tax matters partner must keep each partner informed of all the partnership proceedings relating to the adjustment of partnership items at the partnership level. Computer Programs Lambda v. Commissioner, 90 T.C. 1124, 1126 (1988). It therefore follows that to continue with this litigation, it is essential that a tax matters partner be appointed. In this case, it appears that none of the remaining partners of Shorthorn Genetic Engineering 1984-A, J.V., are willing to serve as tax matters partner and continue with this litigation.

Further, since no objection to the Court's Order dated August 11, 2011, has been received the Court deems conceded and/or abandoned any factual issues regarding whether (1) the Notice of Final Partnership Administrative Adjustment (FPAA) that forms the basis for this case was issued within the applicable period of limitations and (2) the adjustments in the FPAA for the taxable year ending December 31, 1987, are attributable to tax-motivated transactions, as described in former I.R.C. section 6621(c)(3), because the transactions for that year were shams and lacked economic substance. Accordingly, the Court finds that the FPAA upon which this case is based was timely issued within all applicable periods for assessment, as extended by the provisions of I.R.C. section 6229, and that the adjustments to partnership income and expenses of Shorthorn Genetic Engineering 1984-A, J.V., for the taxable year ending December 31, 1987, are attributable to tax-motivated transactions, as described in former I.R.C. section 6621(c)(3).

The foregoing considered, it is

ORDERED that respondent's Motion to Dismiss for Lack of Prosecution filed June 9, 2011, is granted and this case is dismissed for lack of prosecution. It is further

ORDERED that, in addition to regular service, a copy of this Order of Dismissal and Decision shall be served on the remaining partners listed in Mr. Cobb's Motion to Withdraw as Counsel of Record filed July 1, 2011. It is further

ORDERED and DECIDED that the following statement shows the adjustments to the partnership items of Shorthorn Genetic Engineering 1984-A, J.V., partnership for the taxable year ending December 31, 1987:

Taxable year ending December 31, 1987:

<u>Partnership Items</u>	<u>As Reported</u>	<u>As Determined</u>
Income		
Farm Income	\$102,189.00	\$0.00
Expense		
Depreciation Expense	\$916,112.00	\$0.00
Interest Expense	\$ 72.00	\$0.00
Other Farm Deductions	\$ 92,163.00	\$0.00
Guaranteed Payments	\$ 5,972.00	\$0.00
Other Adjustments		
Other Deductions - IRA	\$ 10,000.00	\$0.00
Self-Employment Income (Loss)	(\$906,158.00)	\$0.00
Gross Farm Income	\$102,189.00	\$0.00
Depreciation After 1986	\$350,000.00	\$0.00

That the adjustments to partnership income and expenses for Shorthorn Genetic Engineering 1984-A, J.V., for the taxable year ending December 31, 1987, are attributable to tax motivated transactions as described in former I.R.C. section 6621(c)(3).

(Signed) John O. Colvin
Chief Judge

ENTERED: **OCT 17 2011**