Court Reverses Ernst & Young Tax Decision

by James F. McDonough, Jr. on January 21, 2013

Reversal of Tax Decision

Two former Ernst & Young attorneys won a reversal of a tax decision that convicted them of developing illegal tax shelters from 1999 to 2001.

By a 2-1 vote, a panel of the 2nd U.S. Circuit Court of Appeals in New York overturned a decision that convicted Martin Nissenbaum and Richard Shapiro of creating unlawful shelters at the accounting firm to help wealthy individuals evade federal taxes, citing a lack of evidence. However, the court reaffirmed the conviction of Robert Coplan and Brian Vaughn, who were sentenced to 36 and 20 months in prison, respectively. The panel also affirmed the conviction of investment advisor Charles Bolton, but ordered a reduction of his fine.

The defendants were accused of costing the government roughly $2 billion in taxes by helping those individuals with more than $10 million in taxable income create paper losses using fraudulent scenarios, Reuters reports. This enables the losses to be taxed at a capital gains rate, rather than ordinary income rate, the news source added.

The investigation was started shortly after the accounting firm, Ernst & Young, started a new team to develop tax shelters that would target high net-worth individuals, according to The Associated Press.

They were convicted in 2010 for tax law violations, and Nissenbaum and Shapiro were also charged with obstructing the Internal Revenue Service. Ernst & Young was not charged in the case, as lawmakers say they cooperated with authorities.

While tax shelters are legal, the IRS has been focusing heavily on these tax-advantaged strategies as of late in an attempt to detect potential tax evasion and close the growing tax gap. As a result, the federal agency has partnered with many countries and banks to provide more transparency in the account and reporting processes of investors.