
TAX - FLORIDA

Clay v. Commissioner of Internal Revenue

United States Court of Appeals, Eleventh Circuit - March 16, 2021 - F.3d - 2021 WL 968621

Taxpayers, who were members of Miccosukee Native American tribe, appealed after the United States Tax Court sustained income tax deficiency determination that had been issued against them, arising from unreported income received from per capita tribal casino revenue payments.

The Court of Appeals held that:

- Miccosukee Settlement Act did not exempt payments from taxation, and
- Payments were not exempt as land lease payments.

Miccosukee Settlement Act, which provided that none of the moneys paid or land conveyed to tribe under Act or settlement agreement with United States would be taxable under federal or state law, did not exempt from income taxation per capita tribal casino revenue payments that taxpayers, who were members of Miccosukee Native American tribe, received from tribe, even though taxpayers interpreted Act to empower tribe to collect and distribute money to members without members including it in taxable income determination; Act unambiguously exempted from taxation only "moneys paid" and "land conveyed" under particular section of agreement, and even if Act were interpreted as providing indefinite tax exemption for lands conveyed under it or agreement, casino's land was not conveyed under Act or agreement.

Per capita tribal casino revenue payments that taxpayers, who were members of Miccosukee Native American tribe, received from tribe were not exempt from income taxation as land lease payments, even though taxpayers argued payments stemmed from lease for use of tribe's lands; no lease ever existed, and casino's financial statements specifically confirmed that "no rental payment [was] currently required for use of" tribe's land, and while taxpayers asserted that revenue from leasing of undeveloped tribal lands had always been considered tax exempt, they did not identify any statutory exemption for lease payments, and instead cited only to revenue rulings that were either unrelated to leases or mentioned "rentals" in irrelevant context.

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