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IRS nonacquiescence to Fifth Circuit decision, active participation exception for ranch operations

The IRS announced its nonacquiescence to a 2014 decision of the U.S. Court of Appeals for the Fifth Circuit that held that an interest held by an S corporation in a limited partnership was not a limited partner interest in a farming syndicate because the sole shareholder of the S corporation actively participated in the farming business.

Read Action on Decision 2017-01 that appears in the February 13, 2017 edition of the [Internal Revenue Bulletin 2017-7](#) [PDF 472 KB].

Background

The Fifth Circuit in May 2014 affirmed a federal district court judgment denying the government's attempt to tax a ranch as a "farming syndicate" tax shelter.

The Fifth Circuit concluded that an individual who participated in the management of farming operations for not less than five years comes within the "active participation exception" under prior section 464(c)(2)(A)—irrespective of the fact that the legal title of that person's attributable interest was held in the name of her wholly owned S corporation, rather than in her own name.

The case is: *Burnett Ranches, Ltd. v. United States*, 753 F.3d 143 (5th Cir. 2014). Read the Fifth Circuit's [decision](#) [PDF 158 KB]

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