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Tax Court: Taxpayer retaining rights to technology not allowed capital gains treatment

The U.S. Tax Court today found that because the taxpayer had not transferred "all substantial rights" to certain pharmaceutical technology, the royalties received by the taxpayer constituted ordinary income.

As the Tax Court found, the amounts the taxpayer received were not eligible for capital gains treatment because the taxpayer had retained "valuable rights in the technology" that was the subject of the transfer. The Tax Court thus sustained the deficiency determinations of more than $4 million for 2007 and over $1.7 million for 2008.

The case is: *Spireas v. Commissioner,* T.C. Memo 2016-163 (August 24, 2016). Read the Tax Court's 40-page **opinion** [PDF 151 KB]