

06-1509 BOULWARE V. UNITED STATES

DECISION BELOW:470 F3d 931

LOWER COURT CASE NUMBER: 05-10752

QUESTIONS PRESENTED:

1. What effect must a federal court give a final, non-collusive state court judgment adjudicating ownership of property in determining a taxpayer's federal income tax liability arising from that property?
2. Whether a taxpayer who seeks to invoke the return of capital rule in a criminal tax case must show a contemporaneous intent to treat the corporate distribution as a return of capital?

CERT. GRANTED 9/25/2007

THE PETITION FOR A WRIT OF CERTIORARI IS GRANTED LIMITED TO THE FOLLOWING QUESTION: "WHETHER THE DIVERSION OF CORPORATE FUNDS TO A SHAREHOLDER OF A CORPORATION WITHOUT EARNINGS AND PROFITS AUTOMATICALLY QUALIFIES AS A NON-TAXABLE RETURN OF CAPITAL UP TO THE SHAREHOLDER'S STOCK BASIS, SEE 26 U.S.C. §301(c) (2), EVEN IF THE DIVERSION WAS NOT INTENDED AS A RETURN OF CAPITAL."

EXPEDITED BRIEFING SCHEDULE