

A Taxing Situation

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In 2004, Congress passed the American Jobs Creation Act (“AJCA”) which repealed the extraterritorial tax exemption for domestic companies. The Act included a two-year phase out of the tax exemption. In 2006 DreamWorks Animation SKG, Inc. (“DreamWorks”) entered into a ten-year international licensing agreement to distribute its animated feature films in markets outside the U.S.

DreamWorks submitted a tax refund claim for years 2007 and 2008 for the benefits it believed that it was due based on the income from its international agreement. The IRS refused these claims and demanded that DreamWorks pay a deficiency. DreamWorks paid the deficiency and later filed a complaint against the U.S. Government in the Court of Federal Claims (CFC), claiming it was entitled to \$4,399,060 plus interest based on its argument that the rule in section 101(d) of the AJCA applies to, “extraterritorial income generated from any transaction entered into during 2005 and 2006 regardless of when the income is recognized.”

In reply, the government argued that the plain language made it clear that the tax benefit was not meant to extend beyond 2006 and specifically that, “the transition provision was intended to provide for the orderly implementation of the repeal of the extraterritorial income tax exemption for a period of two years only and was not intended to provide a long-term tax break.”

The court granted the government’s motion for summary judgement in the case, holding that, “Congress... did not intend for the transition rule to confer long-term benefits to taxpayers who entered into transactions in 2005 or 2006 and who had the opportunity to take the tax implication into account.”

Read Judge Firestone’s decision [here](#).