

In Brief: From the Top

May/June 2012

Mark G. Douglas

On May 14, 2012, the U.S. Supreme Court handed down its first ruling of this Term concerning a bankruptcy issue. In *Hall v. U.S.*, ___ S. Ct. ___, 2012 WL 1658486 (May 14, 2012), the court considered whether federal capital-gains-tax liability resulting from the sale by “family farmer” debtors of their farm property during a chapter 12 case is “incurred by the estate” under section 503(b) of the Bankruptcy Code, as required for the debtors to strip the federal government’s corresponding tax claim of its priority, to pay the claim pro rata with other general unsecured claims, and to discharge any remaining obligation to the government under section 1222(a)(2)(A)—the priority-stripping provision added to the Bankruptcy Code by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005.

The court, affirming a ruling below by the Ninth Circuit Court of Appeals, held that “the federal income tax liability resulting from petitioners’ postpetition farm sale is not ‘incurred by the estate’ under § 503(b) and thus is neither collectible nor dischargeable in the Chapter 12 plan.”

Writing for the 5-4 majority, Justice Sotomayor explained:

Certainly, there may be compelling policy reasons for treating postpetition income tax liabilities as dischargeable. But if Congress intended that result, it did not so provide in the statute. Given the statute’s plain language, context, and structure, it is not for us to rewrite the statute, particularly in this complex terrain of interconnected provisions and exceptions enacted over nearly three decades. Petitioners’ position threatens ripple effects beyond this individual case for debtors in Chapter 13 and the broader bankruptcy scheme that we need not invite. As the Court of Appeals noted, “Congress is entirely free to change the law by amending the text.”

Chief Justice Roberts, as well as Justices Scalia, Thomas, and Alito, joined in the majority opinion. Justice Breyer filed a dissenting opinion in which Justices Kennedy, Ginsburg, and Kagan joined.