

Supreme Court Again Denies Review In *Antle*

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COUNTRY DIGEST

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The Supreme Court of Canada on February 2 put the final stamp on *Antle v. The Queen*, denying the taxpayer's request to reconsider his earlier application to appeal the decision of the Federal Court of Appeal in the case.¹ (For prior coverage, see *Doc 2010-24260* or *2010 WTD 220-6*.)

The Federal Court of Appeal had previously dismissed the taxpayer's appeal of a decision by the Tax Court of Canada, which found the appellant's sale of shares via a capital step-up strategy to be invalid.

The taxpayer, Paul Antle, created a Barbados trust for his wife and conveyed the subject shares to the trust, which in turn sold them to Antle's wife in exchange for a promissory note. The wife then sold the shares to an arm's-length purchaser (all in a very short period of time). The funds received from the arm's-

length purchaser ultimately found their way back to a corporation owned by the taxpayer via a loan from his wife.

The Federal Court of Appeal found that the Tax Court was correct in concluding that the trust had not been validly constituted and that the scheme therefore failed. The Federal Court of Appeal also concluded that the trust was a sham.

Antle sought leave to appeal that decision to the Supreme Court of Canada, which denied the application.² The Supreme Court later granted leave to appeal in another case involving a nonresident trust, after which Antle sought to have the Supreme Court reconsider its decision denying his original application. With the Supreme Court's second rejection of Antle's application to appeal, the Federal Court of Appeal decision in the case is now final. ♦

♦ *Steve Suarez, Borden Ladner Gervais LLP, Toronto*

¹The Federal Court of Appeal's October 21, 2010, decision is available at <http://decisions.fca-caf.gc.ca/en/2010/2010fca280/2010fca280.html>.

²See Bulletin of May 13, 2011, at <http://scc.lexum.org/en/bulletin/2011/2011-05-13.bul/2011-05-13.bul.html>.