

NOTE: Pursuant to Fed. Cir. R. 47.6, this disposition is not citable as precedent. It is a public record.

United States Court of Appeals for the Federal Circuit

05-5008

DENNIS H. CARMICHAEL,

Plaintiff-Appellant,

v.

UNITED STATES,

Defendant-Appellee.

DECIDED: May 4, 2005

Before MAYER, Circuit Judge, PLAGER, Senior Circuit Judge, and SCHALL, Circuit Judge.

PER CURIAM.

Dennis H. Carmichael appeals the judgment of the United States Court of Federal Claims dismissing his claim for income tax refunds. Carmichael v. United States, No. 04-CV-190 (Fed. Cl. Aug. 16, 2004). We affirm.

The material facts are not in dispute. Carmichael asserts that, under I.R.C. § 861, only the domestic income of those engaged in certain activities relating to foreign commerce are taxable, and because his income did not come from a taxable “source” his wages and salary were therefore not subject to income tax. This argument has

been uniformly rejected by courts that have considered it, see, e.g., United States v. Burke, 504 U.S. 229 (1992); Davis v. United States, 742 F.2d 171 (5th Cir. 1984), and we reject it as well. See also 2004-12 I.R.B. 622, Rev. Rul. 2004-30, Mar. 22, 2004 (“Any position that, under sections 861 through 865, United States citizens and residents are not subject to tax on wages and other income earned or derived in the United States is frivolous.”).