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U.S. justices rule for PPL Corp in overseas tax case

By: Lawrence Hurley – May 20, 2013

The Supreme Court on Monday ruled for utility PPL Corp in its dispute with the U.S. Internal Revenue Service over credits the company claimed to offset overseas tax payments.

The court ruled on a unanimous vote that Pennsylvania-based PPL can claim \$39 million in U.S. foreign tax credits against a 1997 British windfall tax.

Writing on behalf of the court, Justice Clarence Thomas said the "predominant character of the windfall tax is that of an excess profits tax, a category of income tax in the U.S. sense."

At least two other U.S. utilities - Entergy Corp ETR.N and American Electric Power Co AEP.N - are in the same position, having been hit by the windfall tax after they acquired British utility companies that were privatized in the 1980s and 1990s.

The IRS had rejected the companies' foreign tax credit claims, arguing that the windfall tax did not meet the definition of a tax for which credits can be claimed.

Foreign tax credits are normally available to U.S. companies so they do not pay the same tax twice at home and abroad.

Two appellate courts had offered different opinions in the dispute, leading the nine-member Supreme Court to intervene to settle the matter.

PPL, backed by the U.S. Chamber of Commerce and the conservative Cato Institute and Goldwater Institute, argued that the windfall tax should be eligible for a foreign tax credit.

U.S. multinational companies claimed \$93.5 billion in foreign tax credits in 2009, the most recent IRS figure.

The case is PPL Corp v. Commissioner of Internal Revenue, U.S. Supreme Court, No. 12-43.