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Farmer Hires Wife, Grows Tax Benefits, Treats IRS Like Weeds

Sometimes, the IRS claims what you're doing is all about tax benefits so you shouldn't get them. Sometimes the [U.S. Tax Court](#) agrees. Sometimes, though, taxpayers insist they're right and won't give up. That's what happened [Milo and Sharlyn Shellito v. Commissioner](#).



Tax Seed is Planted. The Shellitos are Kansas farmers who raise cattle, grow wheat, corn and soybeans. Coincidence or not, they also grow milo—a type of sorghum I now think of as Milo Shellito's namesake crop. The Shellitos' accountant told them about a great way to get tax benefits.

Sharilyn should become Milo's employee, he advised. Since they had large medical expenses, Milo could adopt a medical expense reimbursement plan so his wife Sharilyn's medical expenses were paid by her "employer." The Shellitos did it, scrupulously kept track of expenses, filed all required tax withholdings and more. Sherilyn's medical expenses were paid and deducted by Milo, but were not income to Sharilyn.

This was pretty slick, but not to the IRS. Sharilyn wasn't **really** her husband's employee, the IRS said. The Tax Court agreed—even though the Shellitos signed contracts and made it all official. This was all form over substance, said the court.

Undeterred, the Shellitos appealed to the [Tenth Circuit Court of Appeals](#). Appellate tax cases can be tough, and they had to show the Tax Court's factual findings were **clearly erroneous**. Could they do that here? You bet.

There **really was** an employer-employee relationship here, the appeals court ruled. The Shellitos “crossed all of the T's and dotted all of the I's,” the court said. The Tenth Circuit wasn't too happy with the IRS, which seemed to argue whatever it had to argue to trip up this farming couple. The appellate court clearly didn't like that one bit.

It's nice to see the little guy win. Still, be careful. In the inevitable quest for ways to **lawfully** reduce tax bills, it's no wonder Americans sometimes fall prey to tax deals that seem too good to be true. Look at [Wesley Snipes](#). See [Appeals Court Denies New Tax Trial For Wesley Snipes](#). Tax law is **complex** and shelters are defined to include any plan or arrangement having a significant purpose of avoiding or evading federal income tax. But the fact that something is tax efficient doesn't make it a shelter.

And sometimes, if you plant it, it will grow.

For more about shelters, see:

[“DAD” Tax Shelter Is A Deadbeat](#)

[Seeking Shelter In Tax Shelters?](#)

[How Bad Is Your Tax Shelter?](#)

[Why Tax Opinions Are Valuable](#)

[Beware Patented Tax Strategies](#)

[Know Tax Shelters When You See Them?](#)

[Tax Shelters Not Über Alles.](#)

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