

**Burnet Vs. Porter**

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**Court :** US Supreme Court

**Decided On :** Apr-13-1931

**Appeal No. :** 283 U.S. 230

**Appellant :** Burnet

**Respondent :** Porter

**Judgement :**

Burnet v. Porter - 283 U.S. 230 (1931)

U.S. Supreme Court Burnet v. Porter, 283 U.S. 230 (1931)

**Burnet v. Porter**

**No. 203**

**Argued March 12, 1931**

**Decided April 13, 1931**

**283 U.S. 230**

*CERTIORARI TO THE CIRCUIT COURT OF APPEALS*

*FOR THE THIRD CIRCUIT*

## SYLLABUS

1. The Commissioner of Internal Revenue, after approving a deduction for loss in an income tax return and allowing a claim for refund of the proportional part of the tax, had authority to reopen the case later, disallow the deduction and redetermine the tax.

2. Decided, as respects proof of deductible loss, upon the authority of *Burnet v. Houston, ante*, p. [283 U. S. 223](#) .

39 F.2d 360 reversed.

Certiorari, 282 U.S. 821, to review a judgment which reversed a decision of the Board of Tax Appeals, 13 B.T.A. 279, sustaining disallowance of a deduction for a loss in an income tax return.

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MR. JUSTICE SUTHERLAND delivered the opinion of the Court.

William W. Porter was a subscriber in the sum of \$75,000 to the fund described in our opinion handed down this day in No.199, *Burnet v. Houston, ante*, p. [283 U. S. 223](#) . The facts in the present case are the same except that the Commissioner of Internal Revenue first approved the deduction and allowed a claim for refund of the proportional part of the tax, and then some time later reopened the case, disallowed the deduction, and redetermined the tax. The Court of Appeals sustained the power of the Commissioner upon the authority of *McIlhenny v. Commissioner*, 39 F.2d 356, and was clearly right in doing so. That court, however, upon the main point, following its decision in the *Houston* case, reversed the determination of the Board of Tax Appeals in favor of the government. 39 F.2d 360. This is contrary to our decision in the *Houston* case, and, upon that authority, the judgment is reversed.

