

Per Curiam.

UNITED STATES *v.* MASSEI.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS  
FOR THE FIRST CIRCUIT.

No. 98. Argued January 9, 1958.—Decided March 3, 1958.

In a tax-evasion prosecution based on the net-worth method of proof sustained in *Holland v. United States*, 348 U. S. 121, proof of a likely source of the defendant's net-worth increases is not essential if all possible sources of nontaxable income are negated by the evidence.

241 F. 2d 895, affirmed on another ground.

*Roger Fisher* argued the cause for the United States. With him on the brief were *Solicitor General Rankin*, *Assistant Attorney General Rice* and *Joseph F. Goetten*.

*Richard Maguire* argued the cause and filed a brief for respondent.

## PER CURIAM.

The Court of Appeals has based its remand in part on the absence of "proof of likely source," which it regards as an "indispensable" element of the net worth method, citing *Holland v. United States*, 348 U. S. 121, in support of its conclusion. In *Holland* we held that proof of a likely source was "sufficient" to convict in a net worth case where the Government did not negative all the possible nontaxable sources of the alleged net worth increase. This was not intended to imply that proof of a likely source was necessary in every case. On the contrary, should all possible sources of nontaxable income be negated, there would be no necessity for proof of a likely source. The above explanation must be taken

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into consideration in applying the *Holland* doctrine to this case. A new trial being permissible under the terms of the order of the Court of Appeals, we affirm its judgment.

MR. JUSTICE DOUGLAS would affirm the judgment below on the opinion of the Court of Appeals, 241 F. 2d 895, 900-901.