Bleily & Collishaw, Inc. v. Commissioner, 72 T. C. 751, 1979 U. S. Tax Ct. LEXIS 81 (U. S. Tax Court, August 3, 1979)

A series of stock redemptions can be treated as a single plan to terminate a shareholder's interest if there is a fixed and firm plan to do so, even without a contractual obligation.

Summary

Bleily & Collishaw, Inc. (B & C) owned 30% of Maxdon Construction, Inc. (Maxdon), but the other shareholder, Donald Neumann, sought sole control. B & C agreed to sell its shares over time due to Maxdon's cash constraints. The Tax Court held that these redemptions, though not contractually binding, constituted a single plan under IRC § 302(b)(3), treating them as a complete redemption of B & C's interest in Maxdon, resulting in capital gains treatment for B & C.

Facts

In 1969, B & C purchased 225 shares of Maxdon, with Donald Neumann owning the remaining 525 shares. By 1973, Neumann wanted to buy out B & C's interest to gain sole control of Maxdon. Due to cash flow issues, Neumann proposed to purchase B & C's shares incrementally over several months. B & C agreed to sell its shares at $200 each, and Maxdon redeemed all of B & C's shares over a 23-week period from August 17, 1973, to February 22, 1974. Each redemption was supported by a separate agreement, and B & C's accountant determined the number of shares to be sold monthly based on Maxdon's available funds.

Procedural History

The Commissioner of Internal Revenue determined a deficiency in B & C's 1973 income tax, treating the redemptions as capital gains under IRC § 302(a). B & C contested this, claiming the redemptions should be treated as dividends under IRC §§ 301 and 316. The case was heard by the U. S. Tax Court, which ruled in favor of the Commissioner, finding the redemptions constituted a single plan under IRC § 302(b)(3).

Issue(s)

1. Whether a series of stock redemptions, executed without a contractual obligation to sell but pursuant to a plan to terminate a shareholder's interest, can be treated as a single transaction under IRC § 302(b)(3).

Holding

1. Yes, because although B & C was not contractually obligated to sell its shares, the series of redemptions was part of a fixed and firm plan to terminate B & C's interest in Maxdon, meeting the requirements of IRC § 302(b)(3).

Court's Reasoning

The court found that the series of redemptions constituted a single plan to terminate B & C's interest in Maxdon, despite the lack of a formal contract. The court cited previous cases like *Benjamin v. Commissioner* and *Niedermeyer v. Commissioner*, emphasizing that a plan need not be written or binding to be considered fixed and firm. The court noted Neumann's desire for sole ownership and B & C's willingness to sell, along with the consistent monthly redemptions over six months, as evidence of a firm plan. The court rejected the need to analyze each redemption under IRC § 302(b)(1) or § 302(b)(2) separately, as the integrated plan approach under § 302(b)(3) was sufficient.

Practical Implications

This decision clarifies that a series of stock redemptions can be treated as a single transaction for tax purposes if there is a clear plan to terminate a shareholder's interest, even without a formal agreement. This impacts how corporations and shareholders should structure redemption plans to achieve desired tax treatment. It also underscores the importance of demonstrating a fixed and firm plan in such transactions. Subsequent cases have referenced this ruling when analyzing similar redemption scenarios, emphasizing the need for a clear intent to terminate ownership. Businesses should consider this when planning shareholder exits to ensure compliance with tax laws and to optimize their tax positions.

