***Red Carpet Car Wash, Inc. v. Commissioner, 73 T. C. 676 (1980)***

The beneficial owner of a tax shelter investment, rather than the nominee listed on partnership records, is entitled to claim the associated tax deductions.

**Summary**

Larry Lange Ford, Inc. , sought a tax shelter to offset its income and invested in Rollingwood Apartments, Ltd. , listing the investment under T. I. Enterprises, Inc. , to conceal it from Ford Motor Co. The IRS argued that T. I. Enterprises, as the record owner, should claim the partnership losses. The Tax Court held that Larry Lange Ford, Inc. , was the beneficial owner and thus entitled to the deductions, as T. I. Enterprises was merely a nominee without active business operations. Additionally, the court ruled that for surtax exemption purposes, a corporation with no assets or business activity should not be considered part of a controlled group, allowing Larry Lange Ford, Inc. , to claim half the exemption.

**Facts**

Larry Lange Ford, Inc. , faced a cash flow problem despite high profits and sought a tax shelter to offset its income. In 1973, it invested in Rollingwood Apartments, Ltd. , a partnership, to shelter approximately $200,000 of income. The investment was made under the name of T. I. Enterprises, Inc. , to avoid detection by Ford Motor Co. , which could have affected the dealership’s working capital and line of credit. Larry Lange Ford, Inc. , funded the investment, and T. I. Enterprises, Inc. , had no active business operations or assets at the time.

**Procedural History**

The IRS issued a deficiency notice to Larry Lange Ford, Inc. , for the years 1973 and 1974, disallowing the claimed partnership losses on the basis that T. I. Enterprises, Inc. , was the record owner of the partnership interest. Larry Lange Ford, Inc. , petitioned the Tax Court, which held that Larry Lange Ford, Inc. , was the beneficial owner entitled to the deductions and also ruled on the allocation of the surtax exemption.

**Issue(s)**

1. Whether Larry Lange Ford, Inc. , as the beneficial owner of the partnership interest in Rollingwood Apartments, Ltd. , is entitled to deduct its allocable share of the partnership losses for 1973 and 1974.
2. Whether Larry Lange Ford, Inc. , is entitled to a greater portion of the section 11(d) surtax exemption for 1973 than that allowed by the Commissioner.

**Holding**

1. Yes, because Larry Lange Ford, Inc. , was the beneficial owner of the partnership

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interest, having funded the investment and intended to use it as a tax shelter, while T. I. Enterprises, Inc. , was merely a nominee.
2. Yes, because T. I. Enterprises, Inc. , should not be considered a component member of a controlled group for purposes of the surtax exemption due to its lack of business activity and assets, entitling Larry Lange Ford, Inc. , to half the exemption.

**Court’s Reasoning**

The court distinguished between record ownership and beneficial ownership, citing cases like *Moline Properties, Inc. v. Commissioner* and *Paymer v. Commissioner*. The court found that T. I. Enterprises, Inc. , was merely a nominee used to disguise the investment, with no business activity or assets, while Larry Lange Ford, Inc. , provided the funds and intended to benefit from the tax shelter. The court emphasized that the substance of the transaction should prevail over its form, allowing Larry Lange Ford, Inc. , to claim the partnership losses. Regarding the surtax exemption, the court ruled that a corporation with no business activity or assets should not be considered part of a controlled group, as it would defeat the purpose of the surtax exemption.

**Practical Implications**

This decision underscores the importance of identifying the beneficial owner in tax shelter investments, particularly when a nominee is used to obscure the true ownership. Attorneys and tax professionals should carefully document the intent and funding of such investments to support beneficial ownership claims. The ruling also affects how corporations are counted for surtax exemption purposes, potentially allowing for a more favorable allocation when a corporation within a controlled group has no active business. Subsequent cases have cited this decision when addressing similar issues of beneficial ownership and the treatment of inactive corporations in controlled groups.

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