***Omaha Aircraft Leasing Co. v. Commissioner, 74 T. C. 251 (1980)***

A corporation must actively and regularly conduct a lending or finance business to qualify for the exception to personal holding company tax under IRC section 542(c)(6).

**Summary**

Omaha Aircraft Leasing Co. was assessed personal holding company tax for 1973-1975. The company, originally set up to finance aircraft purchases for its sister corporation's customers, had ceased this activity by the years in issue. During 1973-1975, it only had outstanding loans to related entities with no new lending activities. The Tax Court held that Omaha Aircraft did not meet the requirement of actively and regularly conducting a lending or finance business under IRC section 542(c)(6)(A), thus not qualifying for the exception from personal holding company status. The decision highlights the need for consistent and substantive engagement in lending activities to avoid the tax.

**Facts**

Omaha Aircraft Leasing Co. was incorporated in 1964 to provide financing to customers of its sister corporation, Sky Harbor Air Services, Inc. By 1973-1975, all loans to unrelated third parties had been repaid, and the company only had outstanding loans to its sister corporations: Sky Harbor, Sky Mart, Inc. , and Omaha Airplane Supply Corp. These loans were made prior to 1973, with no new lending during the years in issue. The company had no employees or facilities of its own, using Sky Harbor's resources for administration. Its income during the relevant years came solely from interest on these loans to related entities.

**Procedural History**

The Commissioner of Internal Revenue determined deficiencies in Omaha Aircraft's income tax for 1973, 1974, and 1975 due to personal holding company tax. Omaha Aircraft petitioned the U. S. Tax Court, claiming it was exempt under the lending or finance company exception of IRC section 542(c)(6). The Tax Court found for the Commissioner, determining that Omaha Aircraft did not meet the criteria for the exception.

**Issue(s)**

1. Whether Omaha Aircraft Leasing Co. was engaged in the "active and regular conduct" of a lending or finance business during the years 1973-1975 under IRC section 542(c)(6)(A).

**Holding**

1. No, because the company's lending activities were neither active nor regular

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during the years in issue. It had no new loans, only serviced existing loans to related parties, and lacked any substantive business activity beyond collecting interest.

### Court’s Reasoning

The court focused on the “active and regular conduct” requirement of IRC section 542(c)(6)(A). It noted that Omaha Aircraft’s lending activities had ceased before the years in issue, with only three static loans to related entities outstanding. The court emphasized that the legislative intent behind the exception was to include only companies actively engaged in lending or finance businesses. Omaha Aircraft’s lack of new loans, minimal activity in servicing existing loans, and reliance on related party transactions did not meet this threshold. The court dismissed the company’s claims of receiving loan applications and acting as a financial counselor as unsupported by evidence. The court concluded that Omaha Aircraft served more as a financing vehicle for its sole shareholder’s other corporations rather than operating as a lending or finance company.

### Practical Implications

This decision underscores the importance of consistent and substantive engagement in lending activities to qualify for the IRC section 542(c)(6) exception. Companies must demonstrate active involvement beyond mere collection of interest on existing loans, especially when those loans are to related parties. The ruling implies that companies cannot rely on past activities to claim the exception; they must show current, ongoing lending operations. For legal practitioners, this case serves as a reminder to carefully assess a client’s actual business activities against the statutory requirements when advising on potential personal holding company tax liability. Subsequent cases have used this decision to clarify the “active and regular conduct” standard in various contexts, reinforcing its significance in tax law.

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