***Du Pont v. Commissioner, 74 T. C. 498 (1980)***

A series of transactions designed to avoid tax liability will not be disregarded as a sham merely because they return the parties to their original positions.

**Summary**

In Du Pont v. Commissioner, the court addressed whether a series of transactions involving the transfer of land between a private foundation, a disqualified person, and a third party should be considered a sham for tax purposes. Edmund DuPont had sold land to a private foundation in 1971, which was deemed self-dealing. To correct this, the land was transferred back to DuPont in 1973, then immediately retransferred to the foundation through a third party. The court held that these transactions could not be ignored as shams because each step had independent significance, despite the parties ending up in their original positions. This decision underscores the importance of the substance over form doctrine in tax law and highlights the court's reluctance to grant judgment on the pleadings when material facts remain in dispute.

**Facts**

Edmund DuPont sold a 51-acre tract of land to the Bailey's Neck Park Association, a private foundation, in November 1971 for $25,000. In June 1973, an IRS agent advised that this sale constituted self-dealing and needed to be reversed. On July 16, 1973, the foundation transferred the land back to DuPont for $25,000. DuPont then sold the land to Ernest M. Thompson for $25,000, who immediately sold it back to the foundation for the same amount, effectively returning the parties to their original positions. In December 1975, the foundation transferred the land back to Thompson. DuPont was assessed excise taxes for self-dealing in 1973, 1974, and 1975.

**Procedural History**

The IRS determined that DuPont engaged in self-dealing in 1973 and assessed excise taxes for the years 1973, 1974, and 1975. DuPont filed a petition with the U. S. Tax Court, arguing that the 1973 transactions were shams and that the statute of limitations barred the tax assessment for the 1971 transaction. The Tax Court denied DuPont's motion for judgment on the pleadings, ruling that the 1973 transactions had substance and could not be disregarded as shams.

**Issue(s)**

1. Whether the series of transactions in July 1973, which involved the transfer of land from the association to DuPont, then to Thompson, and back to the association, should be disregarded as a sham for tax purposes.

**Holding**

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1. No, because each step in the 1973 transactions had independent significance and was not merely a sham to avoid tax liability.

**Court’s Reasoning**

The court’s decision was grounded in the principle that transactions should be evaluated based on their substance rather than their form. The court found that the initial transfer of the land from the foundation to DuPont in 1973 corrected the 1971 act of self-dealing, and the subsequent retransfer through Thompson was a separate transaction intended to achieve the same end result as the 1971 transaction but in a manner DuPont believed would avoid taxes. The court rejected DuPont’s argument that the transactions were shams, noting that each step had an independent purpose. The court also emphasized that granting judgment on the pleadings would deny the IRS the opportunity to raise additional defenses, such as estoppel, and that further factual development was necessary to resolve these issues.

**Practical Implications**

This case reinforces the importance of the substance over form doctrine in tax law, particularly in the context of transactions involving private foundations and disqualified persons. Practitioners should be aware that even if a series of transactions results in the parties returning to their original positions, each step will be scrutinized for its independent significance. This ruling may influence how tax planners structure transactions to avoid self-dealing and highlights the court’s cautious approach to granting judgment on the pleadings when material facts remain in dispute. Subsequent cases may need to consider this precedent when evaluating similar tax avoidance strategies.

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