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11th Circuit Court of Appeals Affirms Decision in Related Party Case Ocmulgee Fields, Inc.

The 11th Circuit Court of Appeals affirmed the U.S. Tax Court's decision in Ocmulgee Fields, Inc. (132 T.C. 105, 122-23 (2009)), which involved the sale of relinquished property to an unrelated party followed by the acquisition of replacement property from a related party in a transaction designed to qualify for non-recognition of gain under IRC Section 1031.

The Tax Court concluded the exchange was disallowed based on the provisions of IRC Section 1031(f)(4); that the transaction, or series of transactions, were structured solely to avoid the purposes of the related party rules under IRC Section 1031(f).

IRC Section 1031(f) provides that exchanges between related parties are subject to special rules.

Namely, if a taxpayer exchanges property with a related party and either the Taxpayer or the related party disposes of the property before the date that is **two years** after the date of the last transfer, there shall be no non-recognition of gain ..."

EXCEPT:

1. Transfers as a result of death or involuntary conversion; or
2. Transfers where it can be established to the satisfaction of the Secretary that neither the exchange nor the subsequent disposition had, as one of its principal purposes, the avoidance of Federal income tax.

HOWEVER:

1031(f)(4) states the tax-deferral provisions under IRC Section 1031(a) shall not apply to any transaction, or series of transactions structured to avoid the purposes of the related party rules.

Ocmulgee, in its appeal, argued that the Tax Court's factual findings were erroneous and that neither the Taxpayer nor the related party intended to subvert the related party rules, and provided a list of explanations for why the exchange was structured as it was.

The Circuit Court held Ocmulgee's explanations were not persuasive and concluded the Tax Court did not err in its decision.

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