Recent Cases Allowing for Tax Motivated Cases

1. "There is a material difference between structuring a transaction in a particular way to provide a tax benefit (which is legitimate), and creating a transaction without a business purpose, in order to create a tax benefit (which is illegitimate). Coltec Industries v. United State 454 F.3d at 1357.

2. "[I]t is also well established that where a transaction objectively affects the taxpayer's net economic position, legal relations, or non-tax business interests, it will not be disregarded merely because it was motivated by tax considerations." ACM Partnership v. Commissioner of Internal Revenue, 157 F.3d at 248 n.31.

3. "A taxpayer's subjective intent to avoid taxes . . . will not by itself determine whether there is a business purpose for the transaction." IES Industries v. United States, 253 F.3d at 355.

4. Many provisions of the Code owe their existence solely to tax-reducing purposes, to lower current taxes or to shelter income from taxes over time. Many areas the IRS is attacking currently, particularly listed transactions or reportable transactions, may, in theory, be perfectly allowable transactions. As such, as long as each component of the transaction is compliant with the expressed language in the Code and properly characterized, income tax can be reduced without regard to questions concerning the "substance" of the resultant structure. Summa Holdings, Inc. v. Comm'r, T.C. Memo 2015-119 (2017).