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# Summa Holdings: Form Is Substance When It Comes to Law

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In this article, Nicholas Metcalf* and Colin Handzo discuss the Sixth Circuit's rejection of the Internal Revenue Service's (IRS's) substance-over-form arguments in Summa Holdings Inc. v. Commissioner. Following a summary of the underlying transactions—in which the taxpayers transferred money from an interest charge domestic international sales corporation to Roth IRAs—and the tax consequences sought by the taxpayers, the authors discussed the IRS's proposed recharactization of the transactions, the Tax Court's decision, and the Sixth Circuit's reversal. "The IRS challenged the transactions for the 2008 tax year by recharacterizing them under the substance-over-form doctrine to more accurately reflect economic reality. Regarding the substance-over-form doctrine, the Tax Court agreed with the IRS's characterization and held that the true transaction was a dividend to Summa Holdings' shareholders followed by Roth IRA contributions exceeding the allowable limit," Metcalf and Handzo wrote. "The Sixth Circuit reversed the Tax Court and held that the transactions could not be recharacterized under the substance-over-form doctrine. First, the Sixth Circuit held that the IRS's proposed recharacterization did not capture economic reality any better than the taxpayers' actual transactions—it just produced a higher amount of tax. Second, the Sixth Circuit held that the IRS's proposed recharacterization could not be justified by the legislative history of the applicable provisions" The Summa Holdings outcome, despite its unique fact pattern, has already been cited in other substance-over-form appellate court pleadings, which the authors reviewed."To the extent that this language and analysis is adopted in other circuits and applied to other types of transactions," they wrote, "it will provide fortuitous benefits to taxpayers."

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