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CLIENT ALERT

IRS FORECLOSURE ON TRUST PROPERTY

A U.S. District Court decision highlights the significance of the "facts" supporting a transaction. (U.S. *v*. Peeler, et al., [DC MI 11/28/2016] 118 AFTR 2d ¶ 2016-5541)

Peeler was assessed for the years 1998 and 1999, over $1 million dollars by the IRS, which were reduced to a judgment. Subsequent to the judgement in 2001, Peeler "transferred" the property by warranty deed for $10 to a revocable trust established in 1993. Looking to all the facts, the court agreed with the IRS that Peeler was the "true beneficial and equitable owner" of the property and that the IRS could proceed with the foreclosure. The court pointed to the timing of the transfer, the inadequate consideration paid, Peeler being trustee and Peeler using and holding himself out as "owner" of the property.

In conclusion, Peeler learned "… it may be the facts, but not the truth!"

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