

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF IOWA  
EASTERN DIVISION**

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	No. C98-2096 MJM
	)	
JOHN ENGELS; MAXINE V. ENGELS;	)	
THOMAS J. ENGELS and MARY M.	)	<b>ORDER</b>
WILSON as Trustees of MAJON	)	
ENTERPRISES of Floyd County, Iowa;	)	
ROBERT E. ENGELS and MARY M.	)	
WILSON as Trustees of M&J COMPANY	)	
of Floyd County, Iowa; and FARM	)	
CREDIT SERVICES OF THE	)	
MIDLANDS;	)	
	)	
Defendants.	)	
	)	

On September 24, 2001, the Court granted in part and denied in part the United States' motion for summary judgment in the above-entitled case. (Doc. no. 120). In that order, the Court found that several trusts established by John and Maxine Engels ("the Engels") in the mid-1980s were alter egos or nominees of the Engels for purposes of federal tax assessment and collection. In light of that finding, the Court further held that the government was entitled to reduction to judgment of the tax assessments against the Engels for the years 1986 through 1989. Finally, the Court denied without prejudice the United States' motion with regard to its fraudulent conveyance claims and tax lien foreclosure requests.

Presently before the Court is a motion by Defendants to alter or amend the Court's judgment pursuant to Federal Rule of Civil Procedure 59.<sup>1</sup> Defendants' motion challenges two aspects of the Court's opinion: (1) Defendants argue that the Court applied inappropriate criteria in deciding that the trusts were alter egos/nominees of the Engels; and (2) Defendants argue that the Court overlooked evidence in the record in concluding that, aside from the trust issue, the Engels did not dispute the presumptive correctness of the taxes assessed against them.

With regard to Defendants' challenge to the alter ego/nominee determination, the Court has thoroughly reviewed the parties' moving papers and concludes that no new issues have been raised and that all relevant matters were fully considered by the Court prior to its summary judgment ruling on this matter. *See Shoffstall v. Henderson*, 223 F.3d 818, 827 (8<sup>th</sup> Cir. 2000) (affirming denial of Rule 59 motion where the motion "merely restated the arguments [the plaintiff] made in opposition to [the defendant's] summary judgment motion and provided no additional reasons why summary judgment was inappropriate"). Accordingly, to the extent Defendants' motion concerns the Court's substantive determination that the M&J and Majon Trusts were the alter egos/nominees of the Engels, the motion will be denied.

With regard to the latter issue, however, the Court agrees that amendment of

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<sup>1</sup> Also outstanding is a motion by Defendants for leave to file a supplemental affidavit and resistance in further resistance to the United States' motion for summary judgment. (Doc. no. 114). For reasons which will become clear herein, that motion is granted.

its order would be appropriate in this instance. In the initial round of briefs submitted in support and resistance to the United States' summary judgment motion, the parties were primarily focused on the alter ego/nominee dispute and neither party devoted significant attention or argument to the issue of whether there were other challenges to the presumptive correctness of the assessed taxes. Similarly, at oral argument the Court was left with the impression that the Engels' resistance went solely to the substantive dispute between the parties, and the Court's summary judgment order reflects that understanding. Subsequent to oral arguments, however, Defendants moved for leave to file a supplemental affidavit and brief in resistance to the United States' motion, a significant portion of which raised objections to correctness of the tax assessments, irrespective of any decision on the trust issue. (Doc. no. 114). The United States resisted the motion and in the alternative requested permission to further address the issues raised therein. (Doc. no. 115). Defendants' motion was not ruled upon prior to issuance of the Court's summary judgment ruling on September 24, 2001.<sup>2</sup>

Given the above, the Court concludes that its granting of the Government's motion to reduce the tax assessments to judgment should be amended to a denial without prejudice. This will ensure that potentially valid challenges to the presumptive

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<sup>2</sup> To the extent Defendants' supplemental affidavit and brief addressed the alter ego/nominee dispute, the Court finds it substantially duplicative of Defendants' previous submissions and without substantive effect on the Court's analysis or conclusion on that issue.

correctness of the assessments do not go unexamined while still allowing the Government the opportunity it alternatively sought to respond to Defendants' allegations. That said, the Court, at this point, makes no substantive determinations as to the merits of the parties' respective positions on this issue and the United States, should it so choose, is welcome to re-file its motion for substantive review by the Court.

Accordingly, it is Ordered:

Defendants' motion to amend or alter judgment (doc. no. 114) is DENIED IN PART and GRANTED IN PART.

Done and so ordered this 24th day of October, 2001.

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Michael J. Melloy, Judge  
UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF IOWA