



## JUDICIAL DOCTRINES

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### Judicial Doctrines

#### Summary of the Article's Research Question, Motivation, and Conclusion

##### Research Question

The article is a quantitative assessment of the use of judicial doctrines in federal tax cases that trial courts decided between 1993 and 2006. Therefore, the research question was whether the judicial doctrines are monopolized by the government. There are numerous interpretive tools used in federal tax controversies. Some of the most common methods are administrative regulations and legislative history which rely on the material external to the statutes (Schneider, 2009). Judicial doctrines do not explicitly go beyond the words of the statute unlike the above methods of construction even if the effects of such terms are set aside. *Gregory v. Helvering* is the source for the legal tenets used in the government tax debates (Schneider, 2009). According to the article, "Use of judicial doctrines in Federal tax cases decided by trial courts, 1993-2006: a quantitative assessment," the key forms of the judicial doctrines are stepped transactions, substance over form, business purpose, economic substance, and sham transaction (Schneider, 2009). The most important reason they are labeled judicial doctrines is that they were devised by the judges. Therefore, they are not just guidelines such as regulations that an agency promulgates (Schneider, 2009). In theory, the doctrines are utilized by law courts in refuting the consequences that flow from accepting the stern conformity of citizens with the statute's provisions. The article intends to dispel the wrong hypothesis that legal creeds are just raised by the courts or government for their very own advantage. The proof gathered for the article comes from a group of trial verdicts concerning government tax disputes (Schneider, 2009).

##### Motivation

The articles written on the judicial tax doctrines are normative, and as a result, they describe the issues relating to the development of the economic substance doctrine. When setting up the obligations of a person in the voluntary system to remit tax income, a line has to be drawn from acceptance to denial of the responsibility (Schneider, 2009). Taxpayers chose to either avoid or evade to pay the tax provided they are reluctant to accept the responsibility. Tax avoidance is a lawful act to reduce the tax paid by people and companies. There is nothing wrong or sinister when a person arranges his or her affairs to minimize the tax obligations. No single person owes a public duty to pay more income tax than is demanded by the law (Schneider, 2009). Therefore, the courts, government, and taxpayers should devote significant resources to ascertain where the taxpayers place themselves on this line. In spite of the fact that the Code utilizes less explicit principles in establishing tax expense risk, the duty framework ought to rely on the ascertainable statutory models. After the Gregory case in 1935, there has been continued utilization and extension of the legal tax precepts (Schneider, 2009). For example, the judicial doctrines have been summoned in numerous occurrences to combat tax shelters, particularly the corporate tax shelters. According to this accounting concept, companies should ensure their financial statements provide an accurate, relevant, and complete picture of events and transactions. Therefore, they should record the economic substance as opposed to just the legal form thereby presenting a true and fair view of the entity's affairs.

On the other hand, some transactions are disregarded since they are considered shams. There are two types of shams: a sham in fact and sham in substance. The former refers to transactions that did not take place while the latter includes transactions that occurred but does not have the substance represented by their form. For a transaction to be treated as a sham, the court should prove that the taxpayer was driven by no business purposes and the transaction lacks economic substance because there is no sensible likelihood of profits. The doctrine of business purpose requires taxpayers to show that the transaction has a substantial business purpose for it to be regarded by the court. Therefore, the acquisition of the property and the method used should be motivated by nontax business purposes. For instance, taxpayers lost in the case of *Gregory* due to the fact that there was no business purpose for the corporate division (Schneider, 2009). In addition, the taxpayers' transactions should have enough economic substance for the courts to respect them for tax reasons. As a result, subjective business motivations and objective economic substance behind the transactions are used. The transactions should have sufficient substance other than the tax consequences for them to be respected for the basis of taxation. The final judicial doctrine, step transaction, requires a series of separate steps to be collapsed into just one phase, as the tax consequences only apply to this single stage. The doctrine of step transaction infuses numerous tax law areas, particularly estate planning and corporate tax. However, it has been applied recently in cases that involve complicated business and financial transactions.

## Conclusion

In order to reduce the problems that result from the patchwork character of the legal doctrines, the judicial doctrines should be codified by issuing new regulations or by amending the Code (Schneider, 2009). The database for the normative and doctrinal literature was constructed using a clear methodology. In order to achieve this, only cases that have been examined by judges were used. The main reason for this is that the judges' decisions regarding the application of the judicial doctrines are driven by circumstances and facts (Schneider, 2009). Although the law is clear, the facts are not and, therefore, it is suitable to examine decisions that trial court renders as they are the finder of facts in the legal system. The database was assembled from online inquiries, and they originated from all the three preliminary courts in the federal frameworks that contested the duty cases. Additionally, they were limited between 1993 and 2006 (Schneider, 2009).

As per Schneider (2009), the outcomes drawn from the 378 units of examination legitimize the theory of the article that the legislature does not monopolize the legal principles. Furthermore, Schneider (2009) contends that despite the fact that the legal doctrines were raised by citizens, the courts, and the administration, it was not the disputants, but rather the court, that brought the precepts up (Schneider, 2009). The main reason for this is that the litigants had the tendency of not raising the doctrines thereby giving the courts the opportunity to play an active role in the process. On the other hand, the author provided evidence suggesting that the one-way street rule is not correct because there is no proof that it was frequently invoked. In summation, it is obvious that the citizens profit by agreeing to the terms of resolutions which makes the common wisdom practical. Additionally, it is not right to expect that the legal regulations are just utilized for profiting the government as they are applied to any gathering. Nevertheless, the administration has won the greater part of the cases when the regulations were applied for the benefit of the citizens.

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