## **Background Facts**

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Background Facts

The basic facts are described in a stipulation adopted by the district court. In 1949 Ringwalt organized a general insurance agency entitled Ringwalt & Liesche, Inc. (R & L., Inc.). Ringwalt, owning 84% of the shares in the corporation, served as its president. On April 30, 1959, Ringwalt established a trust for the benefit of his children, and he transferred all of his shares in R & L., Inc. to himself as trustee. The trust, commonly known as a Clifford Trust, was specified to last until May 1, 1969, with the trust income being distributable and taxable to the children during the ten-year period. Ringwalt retained a reversionary interest in the trust corpus and held various administrative powers as trustee, including sole discretion to allocate trust receipts between principal and income. \(^{1}\) will The critical events for purposes of this appeal consist of the sale by R & L., Inc. of a major asset, the dissolution of R & L. Inc., and the subsequent formation of a new insurance companies, including National Fire and Marine, but on March 16, 1967, sold its entire interest to Berkshire-Hathaway, Inc. R & L. Inc. readers a transleg aim on the sale exceeding \$700,000. Shortly L, Inc. realized a taxable gain on the sale exceeding \$700,000. Shortly afterward, the shareholders of R & L, Inc. adopted a resolution authorizing dissolution of the corporation effective March 31, 1967. Ringwalt & Liesche Co. (R & L Co.) was organized on April 1, 1967, with respective shareholdings 190/, with respective shareholdings similar to those of R & L., Inc. but with one exception. Ringwalt, rather than the trust, obtained an \$4% interest in the new corporation. R & L. Co. purchased the operating assets and corporate name of R & L., Inc. and proceeded to conduct the business formerly conducted by R & L., local \$40 is a possible of the conduction of the con business formerly conducted by R & L, Inc. 91\*91 in substantially the same manner and at the same location.\n\nOn April 1, 1967, R & L, Inc.\s assets were distributed to its shareholders in April 1, 1967, R. & L., Inc.'s assets were distributed to its shareholders in connection with its dissolution. In particular, \$932,754.06 was distributed to Ringwall as trustee of the short-term trust. These funds were subsequently reinvested in publicly-held securities because, in Ringwalf's view, investment in R. & L. Co. would have been unduly speculative. In which their individual federal income tax returns for the year 1967, Ringwalt and the other taxpayers treated the distribution received from R. & L. Inc. as a corporate liquidation[3] and reported long-term capital gain. R. & L., Inc., similarly treating the distribution as a liquidation, [4] reported no gain with respect to the sale of the National Fire and Marine stock or the transfer of the operating assets to R. & L. Co. In contrast, the Internal Revenue Service determined that the series of transactions through which R. & L., Inc. transferred its assets to R. & L. Co. and then dissolved constituted a corporate reorganization[5] rather than a liquidation. Accordinely, the Internal & L.C. and then dissolved constituted corporate reorganization[5] rather than a liquidation. Accordingly, the Internal Revenue Service treated the liquidating distribution as essentially equivalent to a dividend, which is ordinary income,[6] as opposed to capital gain, income,[6] as opposed to capital gain, which would have been appropriate if the transactions were treated as a corporate liquidation. Income tax deficiencies were assessed against Ringwalt and the other taxpayers; Ringwalf's deficiency was approximately \$150,000

# Procedural History

Jack D. Ringwalt and other taxpayers[1] appeal from the district court's[2] judgment disallowing their claims for income tax refunds for the year 1967. Ir this appeal appellants contend the district court erred in concluding that certain corporate transactions constituted a corporate reorganization rather than a liquidation producing more favorable tax treatment. For the reasons stated below, we affirm

### Procedural History

After payment of the tax, the taxpayer initiated refund actions in the district court. The district court, holding in favor of the United States, concluded that the dissolution of R & L, Inc. and subsequent creation of R & L Co. was correctly treated as a corporate reorganization, and the court dismissor the taxpayers' claims for refunds.

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ultimately depends upon proof of beneficial ownership without regard to the existence or absence of legal title.

The only beneficial right that Ringwalt relinquished under the trust agreement was the right to receive trust receipts allocable to income. Ringwalt had numerous powers of administration ov the trust. The trust assets were subject to execution by Ringwalt's creditors. Ringwalt also retained a reversionary interest in the corpus of the trust to insure that he would be entitled to total control after ten years.\n\nMost significantly, examination of the declaration of trust reveals that Ringwalt as trustee possessed extensive power to allocate trust receipts between principal and income.

The series of transactions that took place in the instant case appears governed by I.R.C. § 368(a)(1)(D), which governed by LR.C. § 368(a)(1)(D), which defines a reorganization as:\(^{1}\)\text{min} a transfer by a corporation of all or a part of its assets to another corporation if immediately after the transfer the transferr, or one or more of its shareholders (including persons who were shareholders immediately before the transfer), or any combination thereof, is in control of the corporation to which the assets are transferred; but only if, in pursuance of the plan, stock or securities of the corporation to which the assets are transferred; but only if, in pursuance of the plan, stock or securities of the corporation to which the assets are transferred are distributed in a transaction which qualifies under section 354, 355, or 356.

We conclude that the dissolution of R & L, Inc. and concomitant incorporation R & L Co. should be construed as a reorganization rather than a eorgai liquidation

The transactions that occurred in the instant case, which in substance were really a continuation of the insurance business rather than its cessation, were properly characterized as a reorganization.\n\nAffirmed.