

**T&E - Alert February 26, 2010**

Estate of Samuel P. Black v. Commissioner of Internal Revenue, U.S. Tax Court, 133 TC No. 15 filed Dec. 14, 2009

Over his lifetime, Mr. Black grew a successful regional insurer [Erie Indemnity.] After retiring, he continued to be active on its board and managed his own brokerage firm. He, however, saw challenges to the sizeable block of Erie stock he and his family had accumulated. In particular, his son had pledged his own Erie stock as security for a loan, and was headed for a divorce whereby the stock would end up in non-family hands. He understood that, as a block, his family's shares were worth more.

He convinced his entire family to form a limited partnership by contributing most of their Erie stock. At the time of his widow's death, the Service asserted that his transfers of Erie stock to the partnership did not meet the requirements of IRC 2036[a.] The Court thought otherwise, determining that keeping the block in the family was a bona fide reason for the partnership's creation, including preserving his buy and hold philosophy and voting as a block.

The Service had also asserted that the marital trust was limited to the value of partnership interests, the deemed funding date of the trust was to be determined by reference to the partnership value as of the date of Mr. Black's death, not at hers, when the partnership was worth more and hence less units would have funded the trust. The Service also denied the interest deduction on a partnership loan which her estate had to take out to pay its taxes while a secondary stock offering was floated; it also denied expenses in connection with a partial stock offering. All these positions were eventually reversed by the Court. The decision, unfortunately, does not cover valuation issues. It can be found at <http://www.NYNJCT-BV.com/EstBlackTC.WPD.pdf>.

Estate of Charlene B. Shurtz v. Commissioner U.S. Tax Court T.C. Memo 2010-21 filed February 3, 2010

This FLP, owned by the decedents of the original founder, was funded with hundreds of acres of Mississippi timberland and a fractional interest in a timber management firm. While the estate and the Service stipulated underlying real estate values and minority discounts, the Lack-of-Marketability discounts were most divergent: the estate supported 50% for the LP interests and 30% for the interest in the management company, while the Service wanted 10% for both. The estate's appraiser used the Mercer model to support the LOMD by modeling shareholder-level income and the Court agreed. The Court resolved the IRC 2036[a] issue in the estate's favor as the partnership was set up in order to guard against "jackpot justice" believed to prevail in that part of the country and other challenges to owners of property. The decision can be found on the U.S. Tax Court's website and at <http://www.NYNJCT-BV.com/EstShurtz.TCM.WPD.pdf>

Please do not hesitate to call or e-mail to discuss this or any other valuation issue.

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