

**Estate of Helen P. Richmond v. Commissioner of Internal Revenue
T.C. Memo 2104-26 filed February 11, 2014**

At the time of her death in 2005, Mrs. Richmond owned a 23.44% interest in Pearson Holding Company ["PHC,] a Delaware-chartered family corporation started in 1928. PHC holds a portfolio of large capitalization, publicly traded stocks and its purpose has been to preserve capital and, whenever possible, generate income for family members. It has 25 shareholders, including the Estate, and the 3 largest holders, also including the Estate, owned a total of 59.2% of the shares. It collects and distributes to its owners most of the dividends received, and its portfolio turnover is low, as it does not want to incur the Built-In Capital Gains tax ["BIG tax"] on stock sales. At the current rate, it would have taken 70 years for the portfolio to completely turn over and 87% of the portfolio value was untaxed as of the end of 2005.

For no other apparent reasons than to lower value, the Estate's two valuation reports - one with the estate return and a slightly higher-value report by a national valuation firm during litigation, used a capitalization of dividends method. The service stuck to the tried-and-true net asset value less lack-of-control, lack-of-marketability and BIG discounts. The Estate's second valuation returned \$5.0 million, compared with the Service's \$7.3 million and the Court ruled at \$6.5 million. The Court eliminated what it called outliers from the closed-end fund data to determine its own DLOC. It also modified the DLOM by using a more rigorous review of restricted stock and pre-IPO data. The Court clearly found for the Service, and settled on a DLOC of 7.75%, a DLOM of 32.1% and a BIG of \$7.8 million.

	Estate	Service	Court
BIG in million [% of liability if due now]	\$18 [100%]	\$7.8 [43%]	\$7.8 [43%]
DLOC	8%	6%	7.75%
DLOM	35.6%	26.4%	32.1%
FMV of the interest	\$5.0 million	\$7.3 million	\$6.5 million

It is beyond this appraiser's understanding why capitalizing expected portfolio dividends would return the value of the Estate's interest in PHC. The Court agreed, asking why ignore the most concrete and reliable indicia of value, i.e. the market value of the PHC portfolio? The Court ruled that the NAV methodology was much more appropriate to value this holding company, and chose to apply a 15% BIG, 7.5% for lack-of-control and 32.1% for lack-of-marketability discounts. The Court reduced the penalty from 40% to 20% due to the valuation updates by both the Service and the Estate. The Service had argued for a 40% penalty was appropriate since the original appraiser for the Estate was not designated, reflecting poorly on the Estate's requirement to act reasonably and in good faith. Since the Estate's executrix lives in a federal appeals district which has yet to opine of the BIG matter, the Court felt free to decide what it considers best, i.e. less than a 100% credit as per the IRS valuation. The decision can be found at <http://www.NYNJCTBV.com/Est.ofRichmond.Memo.Gustafson.TCM.WPD.pdf>.

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