

E-Mail T&E Alert

Generally, this short column alerts practitioners about important tax court cases involving valuation issues, and does it within weeks of publication. This being most likely the last T&E Alert for 2005, we wanted to highlight two key 2005 decisions whereby large estates did obtain valuation discounts from the Court.

In Estate of Charles Porter Schutt v. Commissioner [T.C. memo 2005-126, filed July 26, 2005] a DuPont heir, through Delaware business trusts, established a long-lasting hold strategy with respect to 2 stock positions. This satisfied the Court to qualify for the bona fide sale exception to IRC 2036, and thus obtained a combined 32.5% discount. Substitute FLP to business trust, and the case could have applicability to less illustrious estates. The Court's analysis relied significantly on Bongard [T.C. memo 2005-8, filed March 15, 2005.] The latter case, which introduced the "legitimate and significant non-tax reason" was described in some detail in a May, 2005 article which can be found on the website.

In Estate of Nora Kolczynki v. Commissioner [T.C. memo 2005-217, filed September 20, 2005] significant discounts were obtained based on the difficult-to-classify characteristics of a Southern "plantation" comprised of large tracts of land used as timberlands and/or as environmentally sensitive recreational and/or surplus property. The Court rejected both the method which simply adds the land and the timber values, and a more creative sole proprietorship approach which ignores land values for several tracts based on practical considerations. In the end, the Court accepted a comparison with a smaller neighboring property sale, with factual adjustments. This finding could have applicability to many New England timber properties with less than obvious timbering operations.

Many happy returns of the holiday season to our clients and friends !

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