

Subject: Estate of Stone v. Comm T.C.memo 2003-309 filed Nov. 7
Date: Sun, 16 Nov 2003 16:39:59 -0500
From: "J.L. Pierson, ASA" <jlp@NYNJCT-BV.com>
To: xzy@xyzlaw.com

Dear Attorney Xyz:

It is fair to say that the volume of new FLPs has been curtailed in recent memory due to concerns over IRC 2036, as reflected in the Harper, Thompson, Kimbell and Strangi tax cases and/or appeals.

You may or may not want to start celebrating the return of the FLP as an estate planning vehicle, but at least the Stone decision validates the correct application of the FLP techniques; it also illustrates how the formation of the partnerships at issue qualifies under the bona fide exception rule of 2036. This involves the receipt of interests in exchange pro rata, and the operation of the partnerships to be contemplated and actually taking place as a joint for profit enterprise for the management of its assets. In this "good facts" case, the children's generation actively participated in the management of those assets. The case is also a defeat of the IRS' "we never met an LP we liked yet" approach!

The decision is attached to this message; just click on the link below. Or you can read it on the Court's web site at:
<http://www.ustaxcourt.gov/InOpHistoric/StoneCold.TCM.WPD.pdf>

Regards. JLP

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You will need the Adobe Acrobat Reader to read the decision. The Reader can be downloaded free of charge at:
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