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Tax Valuation E-Flash

Estate of Blount v. Commissioner, United States Court of Appeals for the Eleventh Circuit, No. 04-15013, October 31, 2005

The 11th Circuit affirmed a Tax Court finding that a buy-sell agreement did not determine fair market value for estate tax purposes, but reversed the Tax Court's inclusion of life insurance proceeds in fair market value.

Mr. Blount died in 1997 owning 83% of Blount Construction Company (BCC). His shares were subject to a 1981 buy-sell agreement that was modified in 1996. The 11th Circuit agreed with the Tax Court that the modification was substantial and did not fall under the grandfather provisions in the Omnibus Reconciliation Act of 1990. The Courts' analyses of the agreement found that it was not binding during life and was not comparable to an arm's length transaction, thus rendering the agreement invalid for estate tax purposes.

BCC owned \$3.1 million of life insurance on Mr. Blount, the proceeds of which were to be used to retire his stock under the buy-sell agreement. The IRS argued that *Estate of Huntsman v. Commissioner*, 66 T.C. 861 (1976), should be applied. Under *Huntsman*, life insurance proceeds should be treated like any other operating asset. The estate argued that *Estate of Cartwright v. Commissioner*, 183 F.3d 1034 (9th Cir. 1999), affg. in part and remanding in part T.C. Memo. 1996-286, should be followed. In *Cartwright*, life insurance proceeds were not included in fair market value. Since the buy-sell agreement had been disregarded, the Tax Court did not allow offsetting the insurance receivable with the stock redemption payable and included the proceeds in its calculation of fair market value.

The 11th Circuit reversed the Tax Court on this issue, saying, "*Even when a stock purchase agreement is inoperative for purposes of establishing the value of the company for tax purposes, the agreement remains an enforceable liability against the valued company... To suggest that a reasonably competent business person interested in acquiring the company would ignore a \$3 million dollar liability strains credulity and defies any sensible construct of fair market value.*"

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