TAX COURT CASE UPDATE

Citation:

Estate of Harvey Evenchik, et al. v. Commissioner, T.C. Memo 2013-34, February 4, 2013.

Overview:

The Tax Court ruled that appraisals of the underlying assets of a corporation were not sufficient (not a qualified appraisal) to substantiate a charitable income tax deduction for a contribution of the corporation's stock.

The Facts:

Chateau Apartments, Inc. owned two apartment buildings in Arizona. Mr. Evenchik owned 15,534.67 shares, approximately 72 percent, of Chateau's stock. In 2004, Mr. Evenchik contributed all of his shares to Family Housing Resources to create an endowment fund to assist low-to-moderate income individuals in obtaining affordable housing.

Mr. and Mrs. Evenchik attached appraisals of the two apartment buildings to their Form 8283 (Noncash Charitable Contributions), including a combined value of $1,445,000. They then claimed a charitable deduction of $1,045,289.30, representing 72 percent of the appraised value. The IRS challenged the deduction carried over to 2006, arguing that the Evenchiks failed to provide a qualified appraisal.

Discussion:

The Tax Court determined that the Evenchiks were not entitled to a deduction. First, The Court noted that the appraisals attached to the Form 8283 valued the underlying assets of Chateau, not the value of the shares themselves. In addition, the appraisals did not address the value of the Evenchiks' 72 percent ownership interest in the company, "which could have been overvalued by as much as 35 percent" (due to the lack of an application of discounts). The Court found the appraisals to be "woefully short" of meeting the requirements of Regulation Section 1.170A-13(c)(3)(ii). Specifically, the appraisals did not give a description in sufficient detail to determine what was contributed, did not include a statement that the appraisals were prepared for income tax purposes and did not give the appraised market value on the date of the gift.

The Court rejected the Evenchiks' argument that they had substantially complied with the regulations, and therefore, were entitled to the deduction. An appraisal of the wrong asset prevents the IRS from properly monitoring the claimed contribution, said The Court, adding that a taxpayer cannot substantially comply with the appraisal requirements if the appraisal submitted fails to meet the "essential requirements" of the governing statute. The "gaping holes" in the appraisals prevented the IRS from properly evaluating the property interest contributed, said The Court.

Conclusion:

The Tax Court disallowed the taxpayers' charitable contribution for failure to include a qualified appraisal with the income tax return. The taxpayers' failure to value the correct property did not allow the IRS to determine whether the contributed property interest was overvalued. "And the problem of misvalued property is so great that Congress was quite specific about what the charitably inclined have to do to defend their deductions."