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ACTION ON DECISION

Subject: Estate of Clara K. Hoover, Deceased, Yetta Hoover
Bidegain, Personal Representative v. Commissioner,
69 F.3d 1044 (10th Cir. 1995),
rev'g 102 T.C. 777 (1994)
T. C. Docket No. 18464-92

Issue:

Whether the election of special use valuation under I.R.C. § 2032A precludes a valuation that takes into account a minority interest discount under section 2031.

Discussion:

Clara K. Hoover (decedent) died testate March 7, 1988. Decedent, through a trust, had a 26-percent interest in a limited partnership that was engaged in the operation of a cattle ranch. Decedent elected to value the partnership interest on the basis of the partnership's qualified use of the real estate (cattle ranch) as a farm. Decedent's estate first took into account a 30-percent minority interest discount for its minority interest in the partnership and then subtracted the section 2032A(a)(2) statutorily prescribed reduction of \$750,000 to arrive at the value reported for the farm property. The government argued that use of the minority interest discount and use of the special use valuation rules are mutually exclusive and disallowed the reduction taken for the minority interest discount.

Under section 2032A, if certain requirements are satisfied, the executor may elect to value real property, used for farming purposes, as qualified real property (based on the property's value as a farm) rather than at its fair market value (based upon its highest and best use). Section 2032A(a)(2) limits the aggregate amount of decrease in the value available for qualified property to \$750,000. In addition, under section 2032A(g), the special use valuation is applicable to farm property held indirectly through interests in partnerships, corporations and trusts. Although the provision enacted expressly directed that regulations be issued to prescribe the application of special use valuation to farm property held indirectly, to date no such regulations have been issued.

In Estate of Hoover, the Tax Court followed Estate of Maddox v. Commissioner, 93 T.C.228 (1989). In Estate of Maddox, the Tax Court resolved a similar issue: the estate first valued the farm property at its special use value and then applied a minority interest discount for its indirect ownership. The court held that the estate could not apply a minority discount to a value

reached under the special valuation rule of section 2032A. The court reasoned that a minority interest discount has no application to shrink further the special use value, a value that is not based on fair market value. The Tax Court in Estate of Hoover opined that the sequence in which an estate would claim the benefits of section 2032A and the minority interest discount is not determinative.

The Tenth Circuit reversed. The Tenth Circuit rejected any reliance on Estate of Maddox. The Tenth Circuit distinguished the Tax Court's decision in Estate of Maddox, and specifically agreed with that decision, because the estate valued the real property using the special use value and therefore the \$750,000 limitation provided by section 2032A(a)(2) did not apply. In Estate of Hoover, the estate could not use the special use value but instead was limited to the \$750,000 reduction to the fair market value. The Tenth Circuit concluded that proper application of section 2032A(a)(2) involves a determination of fair market value and inherent in a determination of fair market value is application of a minority interest discount.

In the absence of regulations that provide otherwise, we cannot state that the Tenth Circuit's analysis is an unreasonable interpretation of the provisions of the Code. Consequently, in the absence of regulations, we will not pursue litigation of this issue where the section 2032A(a)(2) limitation applies.

Recommendation: Acquiescence

Reviewers:

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