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Ninth Circuit: Estate tax deficiency sustained, overstated charitable deduction

The U.S. Court of Appeals for the Ninth Circuit today affirmed a decision of the U.S. Tax Court that had sustained a deficiency against an estate for overstating the amount of a charitable deduction and sustained an accuracy-related penalty.

The case is: *Dieringer v. Commissioner*, No. 16-72640 (9th Cir. March 12, 2019). Read the Ninth Circuit's [decision](#) [PDF 84 KB]

Summary

In this estate tax case, the IRS assessed a deficiency against the decedent's estate for overstating the amount of a charitable contribution to a private foundation. The estate had claimed an \$18.2 million charitable deduction based on the value of assets earmarked for the foundation, but the foundation received assets worth only \$6.4 million for a tax savings of about \$4.1 million.

Thus, the estate's executor and heir declared a large charitable deduction based on the value of estate property at the time of death, "...only to manipulate the property for personal gain, deliver assets to the charity worth substantially less than those claimed as a deduction, and receive a tax windfall in the process." The Tax Court sustained the deficiency.

The executor contended that the Tax Court should have taken into account events that occurred after the decedent's death in determining the value of the charitable deduction.

The Ninth Circuit looked to its decision in *Ahmanson Foundation v. United States* ("the principle that the testator may only be allowed a deduction for estate tax purposes for what is actually received by the charity") to affirm the Tax Court's decision upholding the reduction of the charitable deduction and the deficiency assessment. The Ninth Circuit found no clear error in the Tax Court's finding that there was no evidence of a significant decline in the economy that would have decreased the value of the property being donated. The Ninth Circuit also found no error in the Tax Court's upholding of the accuracy-related penalty.

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