DIERINGER V. COMM'R OF INTERNAL REVENUE

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Case Summary, Charitable Contribution, Charitable Deduction, Estate Planning, Ninth Circuit, Stock, Tax
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ABSTRACT

Case Name: *Dieringer v. Comm'r of Internal Revenue*, 917 F.3d 1135, 1137 (9th Cir. 2019).
Jurisdiction: United States Court of Appeals, Ninth Circuit.
Appellee: Internal Revenue Service Commissioner.
Petitioners-Appellants: The Victoria E. Dieringer Estate.
Concepts: Tax; Charitable Deduction; Estate Planning; Stock.
Nature of Case: Whether the Tax Court 1) should have valued the charitable gift at Victoria's Date of Death, 2) even if post-death events could be considered, the Tax Court erred by not accounting for a decline in value of Victoria's shares caused by economic forces, and 3) the Tax Court erred by upholding the accuracy-related penalty under I.R.C. § 662.[1]
Lower Ct. Decision: The Tax Court made a final decision in favor of the commissioner, which sustained an estate tax deficiency of $4,124,717 and an accuracy-related penalty of $824, 943.[2]

INTRODUCTION

Appellant is the Victoria E. Dieringer Estate, which is run mainly by decedent's son Eugene Dieringer, Victoria has setup her estate plan to have Eugene be the sole trustee of both the Trust and Foundation, executor of the Estate in addition to his role as president, director, and majority shareholder of Dieringer Properties, Inc. ("DPI") the family real estate business.[3] The estate executor and heir (Eugene) declared a large charitable contribution based on the value of estate property at the time of death, only to manipulate the property for personal gain, delivering assets to the charity worth substantially less than those claimed as a deduction, and received a tax windfall in the process.[4] The Estate and DPI worked to get Victoria's shares valued and then agreed to a number based on the date of death values instead of the values that resulted as the shares being given discounts and value as a result of Eugene's actions and choices by converting to S Corp. from a C Corp.[5] The Estate claimed a charitable contribution deduction of $18,812,181 based on the date-of-death value of Victoria's DPI. In June of 2013, the I.R.S. Commissioner issued a notice of deficiency to the estate based on its July 2010 tax return, claiming a deficiency of $4,124,717 and imposed an accuracy-related penalty of $824,943 under I.R.C. § 6662.[6]

The Estate challenged the deficiency notice and penalty assessment, claiming date-of-death values should be used to determine Victoria's DPI shares value. The Commissioner responded saying Eugene's actions as well as his sibling's actions after Victoria's death reduced the value of Victoria's contribution to the Foundation.[7] The Tax Court upheld the Commissioner's reduction of the Estate's charitable deduction and the deficiency assessment.[8] The Estate motioned for reconsideration but the Tax Court denied and entered final decision in favor of the Commissioner. The Estate Timely appealed and now claims 1) should have valued the charitable gift at Victoria's Date of Death, 2) even if post-death events could be considered, the Tax Court erred by not accounting for a decline in value of Victoria's shares caused by economic forces, and 3) the Tax Court erred by upholding the accuracy-related penalty under I.R.C. § 662.[9] The Court of Appeals agreed with the Tax Court's decision to uphold the Commissioner's reduction and the deficiency assessment.[10]

The important issue raised here is whether events taking place after the date-of-death regarding valuation of assets going to charity will affect the charitable deduction claimed. This case is important because, it looks at how events occurring after the death of an individual can result in substantial penalties for those not properly reporting charitable deductions.[11]

BACKGROUND

Ahmanson Found. v. United States, 674 F.2d 761,772 (9th Cir. 1981), requires separate valuations allow for the consideration of post-death events. *Ahmanson*'s rule prohibits crafting an estate plan or will so as to game the system and guarantee a charitable deduction that is larger than the amount actually given to charity.[12] Internal Revenue Code §6662(a) imposes a penalty of 20 percent of the amount of the underpayment attributable to either negligence or disregard of rules or regulations. I.R.C. § 6662(a) goes on to state that the Commissioner bears the burden of production regarding applicability of the penalty, but once this burden is met, the taxpayer bears the burden of persuasion as to defenses to the penalty. A penalty will not be imposed if a tax payer can show there was a reasonable cause and that the tax payer acted in good faith.[13]

CASE DESCRIPTION

In *Dieringer* (2019), the Court of Appeals agreed with the Commissioner on his findings. The Court of Appeals found that Victoria's Estate plan was laid out in a way essentially giving Eugene unchecked power. The Court of Appeals also found that Eugene knew that Victoria's shares should have been valued as majority interest applied but instead were instructed to value as minority interest.[14] These actions go against *Ahmanson*'s rule, showing Eugene manipulated the charitable deduction so that the Foundation only received a fraction of the charitable deduction claimed by the Estate.[15] The Court of Appeals also found that the market force did not play a significant decline in the value of the shares like the Estate argued but that it was a result of the 50% discount provided by prescribing the shares as minority shares.[16] The Court of Appeals found that shares being valued as minority interest was negligent since the Estate instructed it to be valued that way, also finding the Estate did not have reasonable cause and good faith for its negligent act.[17] The Court of Appeals found that Eugene acting through the Estate had instructed the appraiser to undertake a minority interest valuation, which they would normally not do, and he knew they were acquiring the stock at a discount rate.[18] The Court of Appeals agreed with the Tax Court and upheld the Commissioner's reduction of the Estate's Charitable Deduction and the deficiency assessment.[19]

CONCLUSION

In conclusion, the Court of Appeals used *Ahmanson*'s rule to analyze and find that Estate knowingly and negligently misrepresented the amount the foundation actually received as a charitable deduction, as a result of Eugene's actions and his instructions the Tax Court's decision upholding the Commissioner's reduction and deficiency assessment is agreed with.[20]

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1. *Dieringer v. Comm'r of Internal Revenue*, 917 F.3d 1135, 1141 (9th Cir. 2019). ↩
2. *Id.* ↩
3. *Id.* at 1144. ↩
4. *Id.* at 1137. ↩
5. *Id.* ↩
6. *Id.* at 1140. ↩
7. *Id.* ↩
8. *Id.* at 1141. ↩
9. *Id.* ↩
10. *Id.* at 1145. ↩
11. *Id.* ↩
12. *Ahmanson Found. v. United States*, 674 F.2d 761,772 (9th Cir. 1981). ↩
13. I.R.C. §6662(c)(1). ↩
14. *Dieringer*, 917 F.3d 1144 (9th Cir. 2019). ↩
15. *Id.* ↩
16. *Id.* ↩
17. *Id.* at 1145. ↩
18. *Id.* ↩
19. *Id.* ↩
20. *Id.* ↩

Posted by Christian Ramos

Christian Ramos is currently enrolled in the J.D. Program at the Golden Gate University (GGU) School of Law, where he has taken classes in both the Tax and Estate Planning LLM Programs. Mr. Ramos has interned at Donahue Fitzgerald LLP, Hedemark Law, and Legal Assistance for Seniors, where he was exposed to the problems that face the senior community and their financial goals. He has worked and interned in the Estate Planning legal community since 2016,

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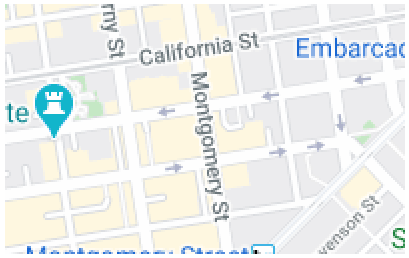

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