



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

OFFICE OF
CHIEF COUNSEL

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INTERNAL REVENUE SERVICE NATIONAL OFFICE FIELD SERVICE ADVICE

MEMORANDUM FOR:

FROM: Deborah A. Butler
Assistant Chief Counsel (Field Service)
CC:DOM:FS

SUBJECT:

This Field Service Advice responds to your memorandum dated .
Field Service Advice is not binding on Examination or Appeals and is not a final
case determination. This document is not to be cited as precedent.

LEGEND:

X =

Year 1 = A =
Year 2 = B =
Year 3 = C =
Year 4 = D =
E =

\$a = x% =
\$b =
\$c =
\$d =

ISSUE:

[REDACTED]

CONCLUSION:


FACTS:

At issue in a number of cases tried in A was whether donors and/or donees were liable for gift taxes (and negligence penalties) as a result of certain gift transfers of X stock made by donors. Some of the cases involved the liability of individuals for gift taxes for Year 2, and the remaining cases involved the transferee liability of the donees for the transferors' gift taxes for Year 1.

The substantive issue presented to the court was whether the donors were entitled to claimed gift tax exclusions resulting from the gift transactions. Additionally, in the transferee liability cases, the government was required to establish that the transfers (gifts) were made, that the gift taxes were not paid, and the value of the gifts transferred. See I.R.C. §§ 6901(a)(1)(A)(iii) and 6324(b). In valuing the gifts for purposes of the transferee liability cases, the Service did not adjust the value of the gifts as reported on the gift tax returns filed by the donors. Valuation of the stock in the donor cases likewise was not adjusted from the value reported on the returns. The parties entered into a stipulation for trial describing the reported value of the transferred stock. Accordingly, valuation of the stock was not an issue litigated in the cases previously tried.

In the cases set for trial in B involving Year 3 and Year 4, the same gift tax exclusion issue as was tried previously is present, together with a valuation issue. For these cases, the Service determined that the value of X stock was almost triple the value reported on the gift tax returns.¹ Although the value assigned to X stock by the Service in the second group of cases greatly exceeds the value used for purposes of the first group of cases, with a resulting increased deficiency determination, there is no reason to believe that the value of X stock jumped dramatically between Years 1 and 2 and Years 3 and 4.

LAW AND ANALYSIS

¹Attached to the Year 1 and Year 2 gift tax returns are valuation reports estimating the fair market value of X equity valued as an aggregate of minority interest, as of C, to be \$b. Attached to the Year 3 and Year 4 gift tax returns are valuation reports estimating the fair market value of X equity valued as an aggregate of minority interests, as of D, to be \$c. The parent of X was sold in E, and \$d was allocated to X. The Service discounted the minority interest by x%, and valued the X stock for Year 3 and Year 4 at \$a (approximately three times the amount set forth in the valuation reports attached to the gift tax returns).

