

PLANNING SECTION

Estate & gift tax discounts—The valuation consultant's role

BY DON STALLINGS

The maximum estate and gift tax rate is 55%. Therefore, there is a high probability that a gift or estate tax return will be



subject to an IRS audit. Estate returns of estates valued at \$5 million or more have slightly less than a 50% probability of being audited.

Many larger estates will contain certain minority interests in closely held businesses or partnerships. It is not uncommon for the interest in some of these entities to be discounted 3

5-60% for a lack of control and marketability. It should come as no surprise that the valuations of these entities are a favorite target of the IRS. I recently attended a conference on valuation in Atlanta, Georgia where several of the IRS's top valuation experts were in attendance. I was amazed at some of the comments they made concerning valuations, and I can assure you they hate a discount worse than a mosquito in church.

In the past, courts have often "split the difference" between the values assigned by the taxpayer's valuation expert and the values assigned by the IRS's expert. Starting in 1980 with the *Buffalo Tool* and *Die* cases (74 TC 441), a trend started whereby the courts began favoring the side with the most comprehensive appraisal and qual-

ified appraiser. In a more recent case, *Estate of Edgar S. Berg* (T.C. Memo 1991-279), the Tax Court rejected the estate's valuation entirely and accepted the value determined by the IRS's expert.

In the *Berg* case, the IRS's expert carried the day because he developed the discounts by referring to specific studies and demonstrated how they applied to the value under dispute. He also demonstrated his competence with superior education, experience, and professional credentials. The taxpayer's expert made only general references to prior cases, which the Tax Court concluded were not relevant to the situation under dispute.

From these cases we can see the importance of selecting a well-qualified valuation expert to substantiate the values

assigned on gift and estate tax returns. In selecting an expert we recommend you look for valuation consultants who have earned a professional designation such as the CVA (Certified Valuation Analyst) as designated by the National Association of Certified Valuation Analysts, the ASA (Accredited Senior Appraiser) as designated by the American Society of Appraisers, or the AIV (Accreditation in Business Valuation) as designated by the American Institute of Certified Public Accountants.

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