Rushton v. Commissioner, 60 T. C. 272 (1973)

Each gift of stock must be valued separately for federal gift tax purposes, with any applicable blockage discount considered only in relation to the number of shares in each separate gift.

Summary

In Rushton v. Commissioner, the Tax Court addressed the application of the blockage discount to gifts of stock. William J. Rushton and Elizabeth P. Rushton made multiple gifts of Protective Life Insurance Co. stock to various donees on several dates in 1966 and 1967. The key issue was whether the blockage discount should be applied to the total shares gifted on each date or to each separate gift. The court held that each gift must be valued separately, and any blockage discount must be considered only for the shares in each gift, not the aggregate. The court rejected the petitioners' argument to apply the discount to all shares gifted on the same date, affirming the Commissioner's valuation based on the mean between published bid and asked prices, as the petitioners failed to provide sufficient evidence to overcome the presumption of correctness in the Commissioner's determination.

Facts

William J. Rushton and Elizabeth P. Rushton made gifts of Protective Life Insurance Co. common stock to various donees on January 3, 1966, June 15, 1966, January 3, 1967, and April 7, 1967. The total shares gifted on these dates were 1,422, 5,000, 6,400, and 2,000 respectively. The stock was primarily traded over-the-counter in Birmingham, with Sterne, Agee & Leach, Inc. , as the principal market maker. The petitioners claimed a blockage discount, arguing that all shares transferred to all donees on the same date should be considered as a single block for valuation purposes. The Commissioner determined the value based on the mean between published bid and asked prices, except for January 3, 1966, and January 3, 1967, where slight adjustments were made.

Procedural History

The Commissioner issued statutory notices of deficiency to the Rushtons, determining gift tax deficiencies based on the stock valuations. The petitioners challenged these valuations in the U. S. Tax Court, arguing for the application of a blockage discount to the total shares gifted on each date. The cases were consolidated for trial, briefs, and opinion. The Tax Court ruled in favor of the Commissioner, upholding the valuations and rejecting the petitioners' blockage discount argument.

Issue(s)

1. Whether the blockage discount should be applied to the total shares of stock

gifted on each date, rather than to each separate gift.
2. Whether the petitioners provided sufficient evidence to support the application of a blockage discount to each separate gift of stock.

Holding

1. No, because the court determined that each gift must be valued separately, and the blockage discount, if applicable, must be applied only to the shares in each separate gift, not to the aggregate of shares gifted on the same date.
2. No, because the petitioners failed to provide evidence of the impact on the market of each separate gift of stock, relying instead on the impact of the total shares transferred on each date.

Court's Reasoning

The court relied on the plain language of the gift tax regulations, which specify that blockage applies to each gift separately. The court cited prior cases such as *Sewell L. Avery*, *Robert L. Clause*, and *Thomas A. Standish*, which consistently applied the rule of valuing each gift separately. The court rejected the petitioners' reliance on *Helvering v. Kimberly*, *Page v. Howell*, and *Maytag v. Commissioner*, finding these cases either distinguishable or not persuasive. The court emphasized that the petitioners failed to provide evidence to support the application of blockage to each separate gift, instead focusing on the impact of the total shares transferred on each date. The court upheld the Commissioner's valuations, which were based on the mean between published bid and asked prices, as the petitioners did not overcome the presumption of correctness in the Commissioner's determinations.

Practical Implications

This decision clarifies that each gift of stock must be valued separately for federal gift tax purposes, and any blockage discount must be considered only in relation to the shares in each gift, not the aggregate of shares gifted on the same date. Practitioners should ensure that clients provide evidence specific to each gift when seeking to apply a blockage discount. The ruling may affect estate planning strategies involving large gifts of stock, as it limits the potential for using blockage discounts to reduce gift tax liability. This case may also influence how courts evaluate evidence in future cases involving valuation disputes, emphasizing the need for specific evidence related to each gift rather than general market impact arguments.

