***Skripak v. Commissioner, 84 T. C. 285 (1985)***

The fair market value for charitable contributions of excess inventory should be determined using the retail market, considering the quantity of goods and market conditions.

**Summary**

In Skripak v. Commissioner, taxpayers participated in a tax shelter program by purchasing scholarly reprint books at one-third of the publisher's list price and donating them to small rural libraries after a six-month holding period. They claimed deductions based on the full list price. The Tax Court ruled that the transactions were not a sham but determined that the fair market value of the donated books was only 20% of the list price, reflecting their status as excess inventory and the weak market for scholarly reprints at the time.

**Facts**

In the 1970s, the demand for scholarly reprint books declined due to reduced federal library funding. Books For Libraries (BFL) sold excess inventory to Embassy Book Services, which then sold to Reprints, Inc. (RPI). RPI marketed these books to high-income taxpayers, who purchased them at one-third of BFL's list price, held them for over six months, and donated them to small rural libraries, claiming deductions at the full list price.

**Procedural History**

The Commissioner disallowed the deductions, asserting the transactions were a sham. The Tax Court consolidated cases and conducted trials for lead petitioners, ultimately holding that the transactions were not a sham but adjusted the fair market value of the donations to 20% of the list price.

**Issue(s)**

1. Whether the taxpayers' participation in the book contribution program constituted valid charitable contributions under IRC section 170?
2. What is the fair market value of the donated books for the purpose of calculating the charitable contribution deduction?

**Holding**

1. Yes, because the taxpayers purchased the books and contributed them to qualified donees, demonstrating ownership and intent to donate.
2. The fair market value of the donated books is no more than 20% of BFL's catalog retail list price, due to their status as excess inventory and the weak market for such books.

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## Court’s Reasoning

The Court found the transactions were not a sham because the taxpayers acquired legal title to the books and directed their donation to qualified libraries. The Court rejected the use of wholesale prices for valuation, focusing instead on the retail market as the appropriate measure for fair market value under IRC section 170. The Court considered the large quantity of books donated compared to BFL’s sales, the books’ status as excess inventory, and the depressed market conditions, leading to the conclusion that the fair market value was significantly less than the list price. The Court also noted that the taxpayers bore financial risk, which supported the legitimacy of the transactions.

## Practical Implications

This decision clarifies that charitable contributions of excess inventory must be valued at the retail market level, adjusted for quantity and market conditions. Taxpayers and practitioners should be cautious when participating in tax shelter programs involving donations of goods, ensuring that valuations are supported by market data and not solely based on list prices. The ruling impacts how similar tax shelters are structured and valued, emphasizing the need for realistic market valuations. Subsequent cases have referenced Skripak when addressing the valuation of donated goods, particularly in situations involving excess inventory or depressed markets.

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