

KLG is Pleased to Announce the Opening of our Westchester Office

Located at 120 Bloomingdale Road, White Plains, New York.

KLG EVENTS

Glenn Liebman, CPA/ABV will be speaking on March 17, 2014, from 6:00 p.m. to 9:00 p.m. at the Suffolk County Bar Association. He is speaking with a group panel at a program entitled "A Practical Potpourri of Accounting Issues". Mr. Liebman will be speaking on the topic of Court Appointments of Neutral Forensic Accountants and The Role of the Neutral Forensic Accountant.

MATRIMONIAL CASE OF INTEREST

GATELY v. GATELY (Appellate Division, 3rd Department) - Defendant-husband contends that the Trial Court erred in the equitable distribution of certain investment accounts, stock options, deferred compensation, and real property. All property acquired during a marriage is generally defined as marital property. An assertion of a separate property claim requires the party asserting the claim to "trace the source of the funds...with sufficient particularity to rebut the presumption that they were marital property." Here, the Appellate Court, after finding no abuse of discretion by the lower court, reaffirmed the decision because the defendant failed to meet the burden necessary to rebut the presumption.

[LINK TO DECISION](#)

ESTATE VALUATION CASE OF INTEREST

ESTATE OF HELEN RICHMOND v. COMMISSIONER (U.S. Tax Court) - The parties contend the 1) proper valuation methodology and 2) applicable discounts for valuing the decedent's 23% interest in a family-owned personal holding company ("PHC") whose primary assets consisted of publicly traded stock.

Valuation Methodology

The estate utilized a capitalization of dividends methodology which the Court deemed to be improper as the method is too heavily relied on the future performance of PHC and its future dividend payouts while ignoring "the most concrete and reliable data of value", the actual market prices of the stocks constituting PHC's portfolio. Accordingly, in valuing this type of interest, the net asset value method, as utilized by the Commissioner's expert, was deemed proper

Lack of Control Discount

Both parties used the same data, however, the estate used the median value of 8% as the lack of control discount while the Commissioner derived its discount of 6% from the mean value of the data of 6.9%. The Court examined the data and determined that of the 59 data points used, three outliers needed to be removed because it tended to skew the calculations. Upon recalculation without the outlying data, the mean value was 7.75%, which the Court concluded was the reasonable control discount to use in this case.

Lack of Marketability Discount

The parties are in general agreement that lack of marketability discounts generally range from 26.4% to 35.6%, with an average discount of 32.1%. The Commissioner applied a 21% discount because PHC paid consistent dividends, had little debt, and was professionally managed. However, the estate argued for a 35.6% discount because the data was based upon entities whose stock are more freely marketable than that of PHC whose non-public status is of indefinite duration. The Court found neither party's argument convincing and applied the average of the data set (i.e. 32.1%)

[LINK TO DECISION](#)

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