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Tax Court: Failure to satisfy substantiation requirements, complete disallowance of charitable contribution deduction

The U.S. Tax Court held that a partnership's omission of its cost or other adjusted basis of contributed property from its appraisal summary could not be excused on the grounds of substantial compliance. Thus, the Tax Court agreed with denial in full of the partnership's claimed charitable contribution deduction. In addition, the court determined that accuracy-related penalties apply because the partnership's claimed fair market value of the remainder interest resulted in a gross valuation misstatement.

The case is: *RERI Holdings I, LLC et al. v. Commissioner,* 149 T.C. No. 1 (July 3, 2017). Read the Tax Court's **opinion** [PDF 263 KB]

Background

The partnership paid just under $3 million in March 2002 to acquire a remainder interest in real property. In August 2003, the partnership assigned the remainder interest to a university, and claimed a charitable contribution deduction of $33 million under section 170(a)(1).

Form 8283, *Noncash Charitable Contributions,* that the partnership attached to its tax return, provided the date and manner of the partnership's acquisition of the contributed remainder interest; however, the space for the "Donor's cost or other adjusted basis" was left blank.

Tax Court's opinion

The Tax Court concluded that the partnership's Form 8283 failed to meet the substantiation requirement of Reg. section 1.170A-13(c)(4)(ii)(E) because it did not include the donor's cost or other adjusted basis of the contributed property. Further, the court explained that because disclosure of the partnership's cost or other basis in the remainder interest would have alerted the IRS to a potential overvaluation of the property, this omission prevented the Form 8283 from achieving its intended purpose and thus could not be excused on the grounds of substantial compliance.

In addition, the Tax Court determined that the remainder interest had a fair market value of approximately $3.5 million on the date of the contribution—not the $33 million claimed by the partnership. Because the value that the partnership assigned to the remainder interest was more than 400% of that interest's actual fair market value, the partnership's claimed charitable contribution deduction resulted in a gross valuation misstatement. The court concluded that the partnership did not make a good faith investigation of the value of the property subject to the remainder interest and thus did not have reasonable cause for, or did not act in good faith with respect to, its claim of a charitable contribution deduction that resulted in a gross valuation misstatement.