

# TaxNewsFlash

## United States

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### **U.S. Tax Court: Lifetime gifts, marital deduction asserted in summary judgment motions**

The U.S. Tax Court this afternoon released an opinion in summary judgment motion proceedings concerning the federal estate and gift taxes.

The case is: *Estate of Sommers v. Commissioner*, 149 T.C. No. 8 (August 22, 2017).  
Read the [opinion](#) [PDF 255 KB]

#### **Summary**

The Tax Court summarized the 75-page opinion as follows.

- The decedent made valid gifts to his nieces, in December 2001 and January 2002.
- Under the agreements governing the gifts made from the decedent to his nieces, the nieces paid the gift tax due on those gifts.
- The decedent died in November 2002.
- The decedent's widow, as his surviving spouse, succeeded to property she owned jointly with the decedent. Also, his will bequeathed and devised to the widow all of his estate remaining (after payment of debts and expenses). The widow succeeded to or was entitled to receive all of the property included in his gross estate, within the meaning of section 2031(a).

The administrator of the estate filed three motions for partial summary judgment seeking determinations that:

- The gift tax owed at the decedent's death on his gifts to the nieces was deductible under section 2053.
- The estate was entitled to a marital deduction under section 2056 equal to the value of the decedent's non-probate property that the widow received, or to which she succeeded that, under applicable state law (New Jersey), was exempt from his debts and the expenses of the estate.

- Any federal estate tax due must be apportioned to the nieces and, thus did not reduce the estate's marital deduction.

The nieces filed their own motion for partial summary judgment, asserting that none of the estate tax liability could be apportioned to them.

## **Tax Court's findings**

The Tax Court summarized its holdings on the various motions for summary judgment as follows:

- The estate's payment of the decedent's gift tax liability would have given rise to a claim for reimbursement from the nieces under the agreements governing the gifts. Therefore, the gift tax owed on those gifts at his death was not deductible under section 2053(a). The estate's gift tax summary judgment motion was denied.
- The estate's motion for partial summary judgment regarding the effect of debts and claims on the marital deduction under section 2056(a) was denied because the amount of the allowable deduction depends on a factual question as to the extent to which assets otherwise exempt from claims against the estate were used to pay estate debts and expenses.
- Under the New Jersey estate tax apportionment statute, no portion of any estate tax due can be apportioned to the nieces.

The Tax Court found that the existing record did not allow for a determination of the effect of the estate tax on the allowable marital deduction. Accordingly, the nieces' estate tax apportionment motion was granted and the estate's motion was denied.

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