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Estate Taxes

Estate Expert's Valuation of Paintings Too Low: Tax Court



By Matthew Beddingfield

The U.S. Tax Court found that the estate of a New York taxpayer had undervalued two paintings it inherited by \$1.77 million (*Estate of Kollsman v. Commissioner*, T.C. Memo. 2017-40, T.C., No. 26077-09, 2/22/17).

Judge Joseph H. Gale ruled Feb. 22 that the expert offered by the estate of Eva Franzen Kollsman to establish the value of two 17th-century "Old Master" paintings was unreliable due to significant conflicts of interest. According to Gale, the comparative market data approach used by the Internal Revenue Service's expert to pinpoint the fair market value of the paintings was the most credible.

Jeffrey Hyland, the executor of Kollsman's estate, inherited the two paintings after Kollsman's death in August 2005. The first painting, by Pieter Brueghel, is titled "Village Kermesse, Dance Around the Maypole" (Maypole painting). The second, by Jan Brueghel, is titled "Orpheus Charming the Animals" (Orpheus painting).

According to the opinion, George Wachter, vice president of Sotheby's North America and South America, sent Hyland a letter in 2005 stating the value of the paintings "based on firsthand inspection of the property" as \$500,000 for the Maypole painting and \$100,000 for the Orpheus painting.

Reported Painting Values

Hyland eventually consigned Maypole to Sotheby's. The purchase price was \$2.4 million. At the time of trial, Orpheus remained in Hyland's possession. In 2005, the estate filed its tax return and listed the paintings' property value as \$500,000 for the Maypole painting, and \$100,000 for the Orpheus painting. The IRS issued the estate a deficiency notice, and in an amended answer valued the Maypole painting at \$2.1 million and the Orpheus painting at \$500,000.

At trial, the estate offered Wachter as its expert to testify as to the paintings' values. The IRS used Paul Cardile, an art historian, as its fine art appraiser.

According to Gale, Wachter's testimony was unreliable because he had a direct financial incentive to curry favor with Hyland by providing a "lowball" estimate that would lessen the estate tax burden on the estate. Gale also said the court was convinced that Wachter exaggerated the dirtiness of the paintings on the valuation date, as well as the risks involved in cleaning them. The court noted that Wachter offered no comparables to support his valuations, as Cardile did for both paintings.

Based on Cardile's valuations, Gale ruled that the value of the Maypole painting was \$1.995 million, while the Orpheus painting had a fair market value of \$375,000 on the valuation date.

Kim E. Baptiste and Michael E. Swartz represented the Kollsman estate. Jane J. Kim and Robert A. Baxer represented the commissioner.

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For More Information

Text of the decision is in TaxCore.

Snapshot

- Expert didn't use comparables in valuing estate's paintings
- Had financial incentive to "lowball" value of artwork

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