

Select Federal Caselaw Updates

2025 Year-End Estate Planning Advisory

November 19, 2025

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Below are key federal caselaw developments from 2025 with practical implications for private wealth clients, along with planning insights and technical considerations drawn from recent estate and tax law commentary. These cases reinforce the importance of technical compliance, careful documentation, and proactive planning in the evolving estate, gift and trust tax landscape.

Estate of Martin W. Griffin v. Commissioner, T.C. Memo. 2025-47 (May 19, 2025)

The decedent's revocable trust made two bequests for the benefit of his surviving spouse: (1) \$2 million to an irrevocable trust with monthly distributions up to \$9,000 for her life, and (2) \$300,000 as a "living expense reserve" to be distributed at \$5,000 per month for up to 60 months, with any remainder passing to her estate. The estate's Form 706 listed the \$2.3 million bequest on Schedule M as "all other property" but did not identify any property as Qualified Terminable Interest Property (QTIP) or make a QTIP election. The IRS disallowed the marital deduction for both bequests, asserting they were includible in the gross estate and subject to deficiency and penalty.

The Tax Court addressed two issues:

- Whether the \$2 million bequest, admittedly a terminable interest, qualified for the marital deduction as QTIP.
- Whether the \$300,000 bequest was a terminable interest or a separate trust qualifying for the marital deduction.

The Tax Court held that the \$2 million bequest did not qualify for the marital deduction because the estate failed to make the required affirmative QTIP election, resulting in loss of the deduction for this terminable interest. In contrast, the \$300,000 bequest was found to create a separate trust, with the remainder passing to the spouse's estate, and thus qualified for the marital deduction.

Practice Note: This case underscores the strict requirements for QTIP elections: failure to expressly elect QTIP status results in the loss of the marital deduction for terminable interests, regardless of the underlying intent or structure.

Elcan v. Commissioner, No. 3405-25 (T.C. petition filed March 14, 2025)

This pending case tests the boundaries of Grantor Retained Annuity Trust (GRAT) planning, particularly the use of substitution powers and grantor promissory notes.

In 2018, the taxpayers created two GRATs funded with closely held business interests and marketable securities, following standard GRAT provisions. The GRATs allowed the grantor to substitute assets, and the grantor used promissory notes to satisfy annuity payments and to substitute for trust assets.

The IRS issued a notice of deficiency, arguing that using grantor notes to satisfy annuities and substituting assets violated the requirements for a qualified annuity interest, causing the GRAT to fail and the initial transfer to be treated as a taxable gift.

The case raises important questions about whether non-cash annuity payments and asset substitutions undermine the integrity of a GRAT and could result in gift tax exposure. Advisors should monitor the outcome, as it may affect the structuring of GRATs involving substitution powers and grantor notes. Until the Tax Court rules, caution is warranted in using these techniques to avoid adverse tax consequences.

Pierce v. Commissioner, T.C. Memo. 2025-29 (April 7, 2025)

This case involved a gift tax valuation dispute over interests in a closely held S corporation. The taxpayers made gifts and sales of company interests to irrevocable trusts and related entities, reporting values based on a 2014 appraisal. The IRS challenged the reported values, asserting higher fair market values. After the IRS conceded to lower values than initially claimed, the taxpayer argued for even lower values, presenting new expert testimony.

The Tax Court conducted a detailed review of the valuation methodologies, ultimately favoring the taxpayer's expert on several key points:

- Adoption of a 26.2% entity-level tax affecting rate using the Delaware Chancery method.
- Acceptance of a 3% long-term growth rate and a working-capital approach for excess cash.
- Application of a 5% discount for lack of control and a 25% marketability discount, both supported by industry data.

Conversely, the court accepted the IRS's 18% base cost of equity and rejected the taxpayer's additional risk premium. The court's approach demonstrates a preference for well-supported, data-driven valuation analyses and careful justification of all assumptions. The final dollar value was left for computation on remand.

Planning Note: This case highlights the importance of robust, defensible valuation work in gift and estate tax planning for closely held businesses.

WT Art Partnership LP v. Commissioner, T.C. Memo. 2025-30 (April 9, 2025)

This case addressed the substantiation requirements for charitable contribution deductions of high-value art.

- The taxpayer donated valuable Chinese paintings to the Metropolitan Museum of Art, relying on appraisals from a Chinese auction house. The IRS disallowed the deductions, arguing the appraisals were not from a "qualified appraiser" and did not meet the technical requirements of section 170(f)(11)(D).
- The court agreed that the appraisals were technically deficient but found that the taxpayer's reliance on professionals and prior IRS settlements constituted reasonable cause, excusing the failure. However, the court reduced the value of one painting and imposed a 40% gross valuation misstatement penalty for that year, while declining penalties for other years.

Planning Note: Strict compliance with qualified appraisal requirements remains essential, particularly for contributions over \$500,000. Even reputable appraisers must satisfy IRS qualification criteria. The case illustrates that while courts may excuse technical noncompliance when reasonable cause is shown, they will not accept unsupported or inflated valuations.

In the Matter of the CES 2007 Trust, C.A. No. 2023-0925-SEM (May 2, 2025)

This Delaware Chancery Court case reinforced the strength of Delaware Asset Protection Trusts (DAPTs) against creditor claims. The CES 2007 Trust, established years before a creditor dispute, held interests in Delaware LLCs for the benefit of the grantor's family. The creditor sought to pierce the trust and LLC structure to satisfy a Michigan judgment.

The court found the trust was properly created under Delaware's Qualified Dispositions in Trust Act and dismissed the creditor's claims, emphasizing that Delaware law does not permit creditors to disregard LLC entities or pierce qualified trusts absent clear evidence of fraud or abuse.

Planning Note: The case highlights the importance of proper trust formation, administration and the timing of transfers in asset protection planning. It also suggests that DAPTs can be effective even for non-residents, though conflict of law and full faith and credit issues remain open for future litigation.

Estate of Barbara Galli v. Commissioner, Nos. 7003-20 & 7005-20 (T.C. Mar. 5, 2025)

This case addressed the gift tax treatment of intrafamily loans.

The decedent loaned \$2.3 million to her son at the applicable federal rate (AFR), with proper documentation and annual interest payments. Upon her death, the note remained outstanding and was included in her estate. The IRS challenged the arrangement, arguing it should be treated as a gift due to lack of commercial enforceability.

The Tax Court ruled for the taxpayer, finding the note met all requirements of a bona fide loan under section 7872, including proper interest, documentation and administration. No gift arose, and no revaluation was required.

Planning Note: The case underscores the importance of adhering to and respecting formalities in intrafamily lending to avoid unintended gift tax consequences.

Estate of Rowland v. Commissioner, T.C. Memo. 2025-76 (July 15, 2025)

This case involved the denial of a portability election for failure to file a timely and complete estate tax return.

The decedent's estate filed Form 706 late and without sufficient asset detail, seeking to transfer the deceased spouse's unused exclusion (DSUE) to the surviving spouse. The IRS disallowed the election, and the Tax Court upheld the denial, finding the return was both untimely and incomplete. The court rejected arguments for substantial compliance and equitable estoppel, reaffirming that strict adherence to procedural and reporting requirements is essential for a valid portability election under Rev. Proc. 2017-34 and Treasury Regulations section 20.2010-2.

Planning Note: This decision highlights the need for careful compliance with all filing deadlines and information requirements when electing portability.

Practice Pointers:

- **QTIP Elections:** Always make an explicit QTIP election on the estate tax return for any terminable interest intended to qualify for the marital deduction.
- **GRATs and Substitution Powers:** Exercise caution with non-cash annuity payments and asset substitutions in GRATs until further guidance emerges from pending litigation.
- **Valuation:** Use robust, well-documented, and industry-supported valuation methods for closely held business interests and charitable contributions.

- **Asset Protection:** Properly structured and administered DAPTs can provide strong protection, but timing and compliance with state law are critical.
- **Intrafamily Loans:** Document and administer loans as bona fide transactions to avoid recharacterization as gifts.
- **Portability:** Ensure estate tax returns are timely and complete, with detailed asset reporting, to preserve portability elections.

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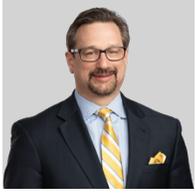
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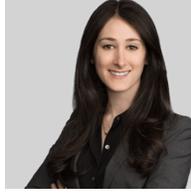
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