

Select Federal Caselaw Updates

2026 Year-End Estate Planning Advisory

November 19, 2026

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Below are key federal caselaw developments from late 2025 and 2026 with practical implications for private wealth clients. These cases again underscore the importance of careful documentation, timely compliance and advance planning in the estate, gift and charitable tax landscape.

Lewis v. Commissioner, T.C. Memo. 2026-58 (July 20, 2026)

The decedent's estate passed under her will to a qualified terminable interest property (QTIP) trust that paid all income to her surviving spouse, who also held a testamentary limited power of appointment. Absent exercise of the power, the assets would pass equally to their two children, and, on an early termination, each beneficiary was entitled to assets equal in value to his or her interest. In 2016, all three agreed to terminate the trust and distribute its $117,604,143 of assets to the surviving spouse. In *McDougall v. Commissioner*, 163 T.C. 112 (2024), the Tax Court held that the children made taxable gifts. In a later order, the court ruled that each gift equaled what that child would have received had the trust simply terminated early. In *Lewis*, the Tax Court valued each gift at $35,141,321.

In valuing the gifts, the court addressed three questions:

Effect of the power of appointment. The court declined to reduce the gifts on the ground that the surviving spouse could have used his power of appointment to redirect the assets. Under state law, a trustee dividing assets on early termination must follow the decedent's intent, and nothing in her will suggested she wanted the surviving spouse to receive everything. A trustee therefore would have disregarded the power and divided the assets equally between the children.

Hypothetical gift tax reimbursement. The court did reduce the gifts by a hypothetical reimbursement obligation. Had the children received their shares under an ordinary early termination,

the surviving spouse would have owed gift tax on the transfer and could have recovered the tax from the children. The court reduced each child's gift by that hypothetical reimbursement obligation, even though no gift tax was actually paid.

Actuarial tables. Because the children's entitlements on an early termination depended on the will and state law, the section 7520 tables did not control the calculation. Separately, when assessing the surviving spouse's income interest, the court refused to treat the 85-year-old surviving spouse as if he were five years younger, because high income and “above-average health” do not justify that adjustment.

Planning note: Terminating a QTIP trust early can trigger multimillion-dollar taxable gifts by the remainder beneficiaries. Families should model gift tax exposure before signing any termination agreement and recognize that the trust's termination provisions and state law directly affect valuation.

Estate of Anne Milner Fields v. Commissioner, No. 25-60403 (5th Cir. June 8, 2026)

The decedent had Alzheimer's disease, and her great-nephew managed her finances as agent under a power of attorney. In May 2016, during a period of rapid decline in the decedent's health, an attorney formed a family limited partnership (FLP) and emailed an appraiser about “obtaining a deeper discount.” The agent then signed the partnership agreement individually and on behalf of the decedent, making the decedent a 99% limited partner and the agent's own entity the general partner. The agent transferred about $17 million of the decedent's assets to the FLP, leaving the decedent only about $2.15 million outside it. The decedent died in June 2016. The estate reported the decedent's FLP interest at a discounted $10,877,000, but the Tax Court required inclusion of the full value under section 2036(a). The Fifth Circuit affirmed.

The section 2036(a) exception for a bona fide sale for adequate and full consideration did not apply. The court examined whether the following asserted non-tax purposes motivated the transfer and concluded that none did:

Fixing problems with the power of attorney. The estate claimed the successor agents were reluctant to serve and that financial institutions would not honor the agent's authority. However, the decedent chose the successor agents while of sound mind, the FLP's structure would not have solved any succession problem, and the agent moved $17 million using the power of attorney alone.

Streamlining management. None of the assets required active management, and pooling unrelated assets from a single contributor offered little benefit.

Preventing elder abuse. The cited incidents occurred years before the FLP was created and had already been addressed.

The court also found the circumstances “troublesome” due to the compressed timeline, the “deeper discount” email and the depletion of the decedent's liquid assets, which left the estate unable to pay the decedent's bequests without FLP distributions, all suggested the claimed purposes were after-the-fact justifications.

Planning note: FLPs formed or funded near death, particularly for an incapacitated transferor with a discount-focused planning record, are highly vulnerable under section 2036(a). Families should form and fund FLPs well in advance, document genuine non-tax purposes and retain sufficient assets outside the entity for personal needs.

Estate of Spenlinhauer v. Commissioner, T.C. Memo. 2025-134 (Dec. 30, 2025)

The decedent's son served as executor and residuary beneficiary of her estate. He obtained an extension to file the estate tax return but did not file by the extended due date and transferred all remaining estate assets to himself. Nearly 11 years after the extended due date, the son filed a return that elected the alternate valuation date, excluded a qualified conservation easement and reported different values for real estate, business interests and promissory notes. The IRS determined an estate tax deficiency against the estate and asserted transferee liability against the son, and the Tax Court largely sided with the IRS:

Late elections. The alternate valuation date election was invalid because it was made more than one year after the extended due date. The conservation easement exclusion also failed because it had to be elected on a return filed by the extended due date, and the court identified other defects in that claim.

Valuation. The court rejected the son's real estate values, which were based on local property tax assessments, and adopted the IRS appraiser's values based on comparable sales and income. It valued the decedent's business interest using the company's sale price shortly after her death.

Estate inclusion. The decedent deeded her residence to her son for a promissory note and lived there until her death. A few months before she died, at age 95, the note was amended to cancel the remaining debt at her death. Finding no documented payments and no intent to create a debtor-creditor relationship, and noting that intrafamily self-canceling notes are presumed to be gifts, the court included the residence in her gross estate under section 2036(a)(1).

Transferee liability. The son was personally liable as a transferee under state law because he distributed all remaining estate property to himself, leaving the estate insolvent before the IRS's claim was resolved.

Planning note: A late estate tax return (Form 706) and undocumented positions carry severe consequences. Valuation elections depend on timely filing. Intrafamily sales for notes, particularly self-canceling notes, must be documented and administered as genuine debt, or the property may be pulled back into the estate under section 2036. Executor-beneficiaries should not distribute assets until estate tax liabilities are resolved, or they risk personal transferee liability.

Sitaraman Jagannath v. Commissioner, T.C. Memo. 2026-92 (Sept. 24, 2026)

The taxpayer founded and served as president of a section 501(c)(3) public charity and was the sole member of an LLC that was disregarded for federal income tax purposes. In April 2016, $590,000 was withdrawn over the counter from the charity's account. Eleven days later, the taxpayer signed an interest-free $590,000 promissory note on behalf of both the charity, as lender, and the LLC, as borrower, but the LLC's accounts never reflected receipt of the funds. The charity's 2016 and 2017 Forms 990 reported a $590,000 loan to an officer, but omitted required information about the transaction. The Tax Court held that the taxpayer engaged in an excess benefit transaction under section 4958. Because he did not correct it within the taxable period, the court sustained a 25% first-tier tax of $147,500 and a 200% second-tier tax of $1,180,000.

The taxpayer, a disqualified person, documented both sides of the transfer, possessed the charity's records and offered no credible explanation for the withdrawal. The charity received no consideration. Relying on contemporaneous bank records and Forms 990 rather than his self-serving testimony, the court rejected the taxpayer's defenses:

Repayment. The taxpayer claimed that a $600,000 wire the charity received in December 2016 repaid the withdrawal. The court disagreed, noting that the withdrawal came from the charity's money market account while the wire went into a different checking account, and that the amounts did not match.

Real estate planning. The taxpayer testified that the note was not an actual transfer but part of an anticipated plan to buy a building for another nonprofit, which his LLC helped fund in 2018. The court found it far more reasonable to conclude that the note, signed 11 days after a $590,000 withdrawal, reflected that withdrawal. The 2018 withdrawal of $536,919.89 occurred more than two years later and appeared to be an independent transaction.

Planning note: Founders of family-controlled charities should avoid insider loans. Any unavoidable insider transaction should be independently approved, documented on commercial terms and reported consistently on Form 990, and any excess benefit should be corrected promptly to avoid the second-tier tax.

Cases to watch

Palermo. The taxpayer preemptively took the position that a residence previously transferred to a QPRT was includible in the gross estate because below-market rent was being paid for its continued use, in an apparent attempt to undo the QPRT and obtain a basis step-up at death. *Palermo v. United States*, No. 24-22514-Civ-BECERRA/TORRES, 2026 WL 2475168 (S.D. Fla. Aug. 17, 2026).

Elcan. This case involves a grantor retained annuity trust (GRAT) in which the grantor swapped promissory notes into the GRATS and then used the note to pay the GRAT annuity. The IRS argues that using grantor promissory notes to pay GRAT annuities violates Treasury regulations and retroactively disqualifies the trusts, making the entire initial transfer a taxable gift. The taxpayers contend that canceling a pre-existing note held as a trust asset is legally distinct from issuing a new debt instrument to pay an annuity. *Elcan v. Commissioner*, Docket No. 3405-25.

Planning note: Both cases test the limits of techniques discussed above, including basis step-up strategies and asset swaps with grantor trusts, and we will continue to monitor them.

Practice pointers

- **QTIP terminations:** Model the gift tax consequences for remainder beneficiaries before agreeing to terminate a QTIP trust early.
- **FLPs:** Form and fund FLPs well before death, document non-tax purposes and leave the transferor sufficient assets outside the entity.
- **Estate tax returns:** File Form 706 on time to preserve elections, and do not distribute estate assets until tax liabilities are resolved.
- **Intrafamily notes:** Document and administer notes, especially self-canceling notes, as bona fide debt.
- **Family charities:** Avoid insider transactions, and correct any excess benefit promptly.

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