United States v. Byrum: Too Good To Be True?

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The article addresses the profound influence the US Supreme Court's decision in *United States v. Byrum* has had on the field of estate and gift taxation, and its impact moving forward. In this landmark case, the Court held that a majority shareholder's retention of the right to vote stock transferred to a trust was not sufficient to cause the stock to be included in his growing estate under section 2036(a). Because this decision only addressed corporations, however, the subsequent popularity of family limited partnerships and similar vehicles allowed the Court's reasoning in *Byrum* to resonate with non-corporate entities. Recognizing this potential, Congress attempted to overturn the result in *Byrum* through provisions in the Tax Reform Act of 1976. Unexpectedly, while this move was meant to overturn the effect of *Byrum* under section 2036(a)(1), invoking it to prevent inclusion under section 2036(a)(2) became increasingly popular. Today, with recent cases attacking family limited partnerships, utilizing *Byrum* to prevent inclusion under section 2036(a), however, may be short-lived.

CONTACTS

For more information, contact your Katten attorney or any of the following attorneys.

Ronni G. Davidowitz
+1.212.940.7197
ronni.davidowitz@katten.com

Jonathan C. Byer
+1.212.940.6532
jonathan.byer@katten.com