

Valuation of Life Insurance Policies

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**A KEY ESTATE
PLANNING GUIDE**

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Valuation Issue

- Insured was age 61 when he purchased two universal policies in his own name. 13 years later at age 74 was doing estate planning and transferred policies to a trust and reported the gift of the policies on the gift tax return.
- Taxpayer valued policies based on appraised value based on life settlement market at about \$13M.
- IRS asserted that the value was the interpolated terminal reserve plus unexpired premium. Valued at about \$31.7M. Reg. § 25.2512-6(a).
- Insurance companies grapple with Forms 712 and what value to list.
- The secondary market for policies may offer comparable values for policies.
- The Court held that summary judgement was not appropriate and that the issue had to go to trial.
- Dematteo v. Comm'r, Tax Ct. Dkt. No. 3634-21 (July 21, 2022).

Some Additional Considerations on Insurance Policy Valuation

- Note the Reg. was last amended in 1974. Universal life was not created until after that and the secondary market developed after that. So, the Regulation is outdated as compared to the modern market, but the Reg remains as published IRS guidance.
- The IRS has said that the life settlement market may not provide a valid fair market value. There is no authority in the law to recognize the secondary market as a viable alternative to value the policies in contravention of the Regulations. The IRS quoted from the appraisal which said: “Institutional investors are extremely competitive for life insurance policies when face amount falls into a range of \$250,000 to \$5 million and the estimated life expectancy ranges from 25 months to 144 months.” Thus, the policies in question were outside that range.

Form 709 Excerpt of Instructions

- “For each life insurance policy, attach Form 712, Life Insurance Statement.
- “Note for single premium or paid-up policies. In certain situations, for example, where the surrender value of the policy exceeds its replacement cost, the true economic value of the policy will be greater than the amount shown on line 59 of Form 712. In these situations, report the full economic value of the policy on Schedule A. See Rev. Rul. 78-137, 1978-1 C.B. 280, for details.....”
- “If you do not attach this information, Schedule A must include a full explanation of how value was determined.”

Additional information

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