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U.S. Tax Court Holds That Decedent’s Estate Cannot Deduct Gift Taxes Unpaid on Decedent’s Date of Death Where Donees Previously Agreed to Pay Gift Taxes

Less than three years prior to his passing, decedent transferred artwork to a limited liability company (LLC) and subsequently made gifts of his interest in the LLC to his nieces. The nieces executed gift acceptance agreements in which each of them agreed to pay the gift taxes, if any, relating to the gifts of the LLC units. The IRS determined that decedent’s estate could not deduct the gift tax owed on the decedent’s gifts to his nieces, even though the gift tax was unpaid as of the decedent’s date of death. The U.S. Tax Court ruled that the gift tax owed on the decedent’s gifts to his nieces is not deductible because the

estate's payment of the gift tax liability would have given rise to a claim for reimbursement from decedent's nieces under their acceptance agreements. The Tax Court also determined that, since the interests in the artwork, through the LLC, were not part of the decedent's estate, the estate cannot apportion the estate tax liability to his nieces for such gifted interests in the artwork. See *Estate of Sommers v. Commissioner*, 149 T.C. No. 8 (2017).

[View Estate of Sommers v. Commissioner, 149 T.C. No. 8 \(2017\)](#)

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AALU Member

Our mailing address is:

AALU

11921 Freedom Drive

Suite 1100

Reston, VA 20190