

Bond Case Briefs

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PBBM-Rose Hill, Limited v. Commissioner of Internal Revenue

United States Court of Appeals, Fifth Circuit - August 14, 2018 - F.3d - 2018 WL 3853450 - 122 A.F.T.R.2d 2

Limited partnership petitioned for redetermination of final partnership administrative adjustment (FPAA) which determined that it was not entitled to charitable contribution deduction for its donation of a conservation easement to a land trust and penalty for overvaluing the conservation easement.

The United States Tax Court entered decision for IRS. Partnership appealed.

The Court of Appeals held that:

- In determining whether public-access requirement for qualified conservation easements was fulfilled, Tax Court was required to focus on terms of the deed and not on actual use of the land after donation;
- Terms of easement fulfilled public-access requirement for partnership to be able to claim charitable contribution deduction;
- Terms of easement did not fulfill the perpetuity requirement for partnership to be able to claim charitable contribution deduction;
- Fair market value of property before partnership donated it, based on its highest and best use, was IRS expert's estimate of \$2,400,000 rather than taxpayer's expert's estimate of \$15,680,000, so that total amount that could be deducted was \$100,000 instead of the \$15,160,000 claimed by partnership;
- Managerial signature on cover letter of report sent prior to issuance of FPAA satisfied IRS's obligation to obtain written managerial approval of initial determination of gross valuation misstatement penalty; and
- Gross valuation misstatement penalty applied to penalize partnership's overstatement of the deduction, but not to decision to claim deduction which it was not entitled to claim.