

UNITED STATES TAX COURT  
WASHINGTON, DC 20217

MN

ESTATE OF NATALE B. GIUSTINA, )  
DECEASED, LARAWAY MICHAEL )  
GIUSTINA, EXECUTOR, )  
 )  
Petitioner )  
 )  
v. ) Docket No. 10983-09.  
 )  
COMMISSIONER OF INTERNAL REVENUE, )  
 )  
Respondent )

**ORDER**

I.

On June 22, 2011, the Tax Court issued its Memorandum Opinion, concluding that the value of the 41.128% limited partner interest in Giustina Land & Timber Co. Limited Partnership owned by Natale Giustina at his death on August 13, 2005, was \$27,454,115.

On March 7, 2012, the Tax Court entered a decision reflecting the conclusions in the Memorandum Opinion.

On December 5, 2014, the Ninth Circuit issued an opinion reversing and remanding the decision of the Tax Court. It held, among other things, that the Tax Court clearly erred in failing to adequately explain its basis for cutting in half the company-specific risk premium proffered by the Estate's expert. It remanded the case "for recalculation of valuation".

On February 10, 2015, the Ninth Circuit issued its mandate.

**SERVED Feb 27 2015**

II.

The lower court regains jurisdiction of a case once the appellate court has issued its mandate. 20A-341 Moore's Federal Practice—Civil sec. 341-12[3]; Caldwell v. Puget Sound Apprenticeship & Training Trust, 824 F.2d 765, 767 (9th Cir. 1987); In re Thorp, 655 F.2d 997, 998 (9th Cir. 1981). Therefore, the Tax Court has regained jurisdiction of this case.

III.

Because the remand by the Ninth Circuit contemplates further explanation from the Tax Court of an aspect of its prior opinion, the Court will issue a supplemental opinion. In the meantime, the parties are free—as always—to negotiate a settlement. The parties are to advise the Tax Court of any settlement by filing status reports on or before 60 days after the issuance of the mandate.

IV.

Upon due consideration, it is

ORDERED that the parties shall, on or before April 13, 2015, file status reports regarding any settlement.

**(Signed) Richard T. Morrison**  
**Judge**

Dated: Washington, D.C.  
February 25, 2015