2013

Kite: IRS Wins QTIP Battle But Loses Annuity War

Kerry A. Ryan
Saint Louis University School of Law

Kite: IRS Wins QTIP Battle But Loses Annuity War

By Kerry A. Ryan

Kerry A. Ryan is an associate professor of law at Saint Louis University School of Law.

In *Kite*, the Tax Court held that a 10-year deferred annuity constituted adequate and full consideration for a transfer of family partnership interests, even though the transferor died before receiving any payments. The court also held that the liquidation of a qualified terminable interest property trust and subsequent sale of its assets constituted a disposition of the qualifying income interest for life, resulting in a deemed transfer of the entire trust under section 2519. Ryan discusses those holdings and two more issues that were not raised in the Tax Court proceeding but are clearly implicated by the *Kite* facts.

In *Estate of Kite v. Commissioner*,[1] the Tax Court decided several issues regarding a complex estate plan designed to minimize (or escape entirely) the reach of the federal income, gift, and estate taxes. Virginia Kite came from a wealthy Oklahoma banking family. Her husband, James Kite, predeceased her, and she never remarried. She died on April 28, 2004, survived by her three children. During her lifetime, Virginia Kite was the income beneficiary of several trusts, four of which were at issue in the case: two qualified terminable interest property trusts[2] (QTIP trusts 1 and 2), a marital deduction trust qualifying under section 2056(b)(5) (LEPA trust), and a lifetime revocable trust. The opinion addresses some of the gift and estate tax consequences of a complicated series of transactions that culminated in the assets of the three former trusts being transferred to Virginia Kite's revocable trust, and sold by that trust to her children for three deferred private annuity agreements. This article will focus on four issues concerning the application of sections 1014(e), 2511, 2512, and 2519 to the *Kite* facts.

James Kite's Estate: Section 1014(e)?

The first issue raised by the case concerns a transaction engaged in before James Kite's death. On February 15, 1995, Virginia Kite created an *inter vivos* QTIP trust (QTIP Trust 1) naming her husband as sole income beneficiary for his life. Virginia Kite retained a secondary life estate in the trust, with the remainder to be distributed to three trusts, one for each of the Kite children. Virginia Kite gifted common stock in Oklahoma Gas & Electric Co. (OG&E) to the trust and made a valid QTIP election.[3] As a result, the transfer qualified for the marital deduction and generated no gift tax liability for Virginia Kite. James Kite died one week after the creation of QTIP Trust 1. Although under section 2044, the value of QTIP Trust 1 was included in James Kite's estate, his executor made a valid QTIP election and, consequently, the trust's assets also avoided tax in his estate.

The short duration of James Kite's interest in the trust raises an issue regarding its purpose. The most common purpose of an *inter vivos* QTIP trust is to maximize the use of both spouses' effective transfer tax exemption amounts.[4] By creating such a trust, a wealthier spouse can fund a poorer spouse's applicable exclusion amount without generating any transfer tax liability for either spouse. Interestingly, that did not seem to be Virginia Kite's intention in creating the lifetime QTIP trust. The opinion notes that James Kite died with a gross estate of approximately $15 million and zero federal estate tax liability after the marital deduction. QTIP Trust 1 received about $4 million of his estate assets. His executor allocated the remainder of the estate to two separate trusts as follows: (1) about $1 million to QTIP Trust 2[5]; and (2) approximately $10 million to the LEPA trust. Given the size of his total estate,

[1] T.C. Memo. 2013-43.
[2] *See* section 2056(b)(7).

[3] *See* section 2523.
[4] *See generally* sections 2010(c) and 2505.
[5] The executor funded the trust with assets equal to James Kite's available generation-skipping transfer tax exemption under section 2631. Presumably, the executor made an election under section 2652(a)(3) to treat James Kite as the transferor of the QTIP for purposes of the GSTT (reverse QTIP election).

it appears that James Kite did not need the assets in QTIP Trust 1 to fund his effective exemption amount.[6]

Rather than transfer tax savings, it appears that Virginia Kite intended to (and did actually) procure an income tax benefit by creating QTIP Trust 1 immediately before her husband's death.[7] While the value of the OG&E stock used to fund the trust was approximately $4 million, its income tax basis was only $41,028. At its creation, QTIP Trust 1 acquired Virginia Kite's basis in the stock under section 1015. However, upon James Kite's death one week later,[8] the inclusion of the trust assets in his gross estate under section 2044 resulted in a step-up in basis under section 1014 to the stock's date of death value (about $4 million).[9]

A question not addressed by the court (and presumably not raised by the IRS) is whether section 1014(e) does or should apply in that circumstance. Section 1014(e) provides that if (1) appreciated property was acquired by the decedent by gift during the one-year period ending on the date of the decedent's death, and (2) that property was acquired from the decedent by (or passes from the decedent to) the donor of that property, the basis of the property in the hands of the donor shall be the adjusted basis of the decedent immediately before death.[10] Congress enacted section 1014(e) as part of the Economic Recovery Tax Act of 1981, the same act that created the unlimited marital deduction for gift and estate tax purposes. Congress was concerned that a transfer tax free interspousal flow of assets would increase incentives to engage in deathbed transfers of appreciated property between spouses to receive a basis increase at death.[11] Congress believed ''that allowing a stepped-up basis in this situation permit[ted] unintended and inappropriate tax benefits.''[12]

It is unclear if or how section 1014(e) applies in the *Kite* scenario.[13] Although the statute was enacted in 1981, Treasury has yet to promulgate regulations under section 1014(e). An argument exists that section 1014(e) should apply in that situation to bar any basis step-up in the stock.[14] While the statutory language seemingly contemplates successive outright interspousal transfers, the legislative history supports a broader application to near-death interspousal transfers in trust.[15] If section 1014(e) applied in *Kite*, the basis of the assets in QTIP Trust 1 after James Kite's death would be the same as his adjusted basis immediately before death, or $41,028. An alternative approach, one adopted by the IRS in a private letter ruling, is that section 1014(e) should deny a step-up in basis to only a portion of the trust — Virginia Kite's income interest.[16] Under that view, Virginia Kite gave an income interest in QTIP Trust 1 to her husband, and within one year, she got back an income interest in the same trust at his death. By negative inference, *Kite* provides support for a third position — namely, that section 1014(e) does not apply at all to near-death interspousal transfers in trust.

Annuity Transaction — Gift or Sale?

On December 31, 1996, all of Virginia Kite's trusts formed a limited partnership.[17] In 1997, as the trustee of her trusts, she gifted about one-third of the limited partnership interests to her children. In 1998 the entity reorganized in Texas by merging into Baldwin Limited Partnership (Baldwin LP).[18]

---

[6]From 1987 to 1995, the applicable exclusion amount was $600,000 (subject to a phaseout for large estates). *See* section 2010(c) (before 1997 amendment).

[7]A footnote in the opinion confirms that the OG&E stock obtained a step-up in basis under section 1014. *Kite*, T.C. Memo. 2013-43, at *8, n.9.

[8]The opinion does not explicitly mention the state of Mr. Kite's health immediately before his death.

[9]Section 1014(b)(10).

[10]Appreciated property is defined as ''any property if the fair market value of such property on the day it was transferred to the decedent by gift exceeds its adjusted basis.'' Section 1014(e)(2)(A).

[11]H.R. Rep. No. 97-201, at 188-189 (1981).

[12]*Id.* at 188 (note that the original bill provided for a three-year lookback period before death).

[13]*Accord* Kathryn G. Henkel, *Estate Planning & Wealth Preservation: Strategies and Solutions*, para. 44.20[2] (2013).

[14]*Accord* Jeffrey Pennell, ''Jeff Pennell on *Estate of Kite*: Will it Fly?'' *Estate Planning Newsletter* No. 2062, Leimberg Information Services Inc. (Feb. 11, 2013).

[15]*See* Mark R. Siegel, ''I.R.C. Section 1014(e) and Gifted Property Reconvened in Trust,'' 27 *Akron Tax J.* 33, 45-49 (2012) (arguing that the statutory language contemplates transfers in trust and the legislative history ''evidences congressional concern for transfers directly or indirectly from the donee-decedent back to the donor'').

[16]LTR 9321050 (the IRS ruled, in circumstances similar to *Kite*, that section 1014(e) applied only to the surviving spouse's income interest only and that the trust's remainder interest qualified for a basis step-up). *Accord* Siegel, *supra* note 15, at 50-53 (detailing how partial application of section 1014(e) would apply to interspousal transfers in trust).

[17]Easterly Corp., an Oklahoma corporation wholly owned by Virginia Kite and the Kite children (individually or through trusts), was the general partner.

[18]Easterly Corp. also reorganized in Texas (the court indicated that Texas provided a more advantageous state tax jurisdiction than Oklahoma).

In May 1998 Virginia Kite's trusts sold their remaining interests in Baldwin LP to her children for several promissory notes (Baldwin notes).[19] On December 31, 2000, Virginia Kite's trusts contributed the Baldwin notes to Kite Family Investment Company (KIC), a Texas general partnership, in return for a 99 percent interest in the entity.[20]

In January 2001 Virginia Kite's attorney[21] met with the Kite children to discuss a proposed sale of their mother's interest in KIC (owned by her trusts) to her children for three deferred private annuity agreements.[22] Under the annuities, the first payment would be due 10 years after the effective date of the agreement. The attorney advised that if Virginia Kite died within the deferral period, her annuity interest would terminate, and as a result, her interest in KIC (owned by the trusts) should avoid estate taxation. However, if she survived the deferral period, each Kite child would be personally liable for an almost $2 million annual annuity payment. The court noted that the children's personal assets could sustain only three years of annuity payments; thereafter, the children would be insolvent.

In March 2001 the parties agreed to move forward with the annuity sale. The transaction occurred in three steps. On March 28, 2001, Virginia Kite replaced the trustees of the three marital trusts (QTIP trusts 1 and 2 and the LEPA trust) with the Kite children, retroactively effective as of January 1, 2001. The children, as trustees, terminated the three trusts (as of January 1, 2001) and distributed the trusts' assets (consisting of a 99 percent interest in KIC) to their mother's revocable trust. On March 30, 2001, Virginia Kite's revocable trust sold its entire remaining interest in KIC to her children for three unsecured 10-year deferred private annuities. Virginia Kite died on April 28, 2004, before receiving any annuity payments. The executor did not include the value of the KIC interest in Mrs. Kite's gross estate. The IRS issued gift tax and estate tax notices of deficiency of about $6 million and $5.1 million, respectively. The court consolidated the gift and estate tax cases for trial.[23]

The Tax Court respected the exchange of the partnership interests for the annuities as a valid sale — not a disguised gift — even though Virginia Kite died before the first annuity payment was due. The government first argued that the annuities failed to provide adequate and full consideration for the transfer of the KIC interests. Under normal gift tax rules, if the value of the property transferred exceeds the value of that received in an exchange, the excess will be considered a taxable gift.[24] The IRS alleged that the estate improperly used the section 7520 actuarial tables to value the annuities, because Virginia Kite's age and the compromised state of her health made her death within 10 years foreseeable.[25] The government relied on evidence that she received 24-hour home healthcare from 2001 until her death.[26]

At the time of the annuity transaction, Virginia Kite was 75 years old, with an actuarial life expectancy of 12.5 years. The regulations allowed her to use the section 7520 actuarial tables if she was not terminally ill at the time of the transaction.[27] The regulations define terminal illness as an incurable illness or other deteriorating physical condition, with at least a 50 percent chance of death within a year. Survival for at least 18 months raises a presumption of a lack of terminal illness at the time the transaction was entered into, unless the contrary is established by clear and convincing evidence.

In deciding whether to engage in the annuity transaction, Virginia Kite met with her physician, who sent her a letter concluding that she was not terminally ill ''and that there is at least a 50 percent probability that she will survive for 18 months or longer.''[28] The estate also cited *McLendon v. Commissioner*,[29] in which the Fifth Circuit held that a terminally ill cancer patient, with a physician-certified 10 percent chance of surviving more than a year, was not terminally ill for purposes of using the section 7520 actuarial tables to value a private annuity. Based on the physician's note and the

---

[19]The notes were secured, fully recourse promissory notes, payable over a 15-year period, with interest accruing at a rate of 5.81 percent per year. Annual note payments (principal and interest) totaled about $1 million per year.

[20]Easterly Corp., the corporate general partner of Baldwin LP, contributed the remaining 1 percent and also served as manager.

[21]According to the court, the attorney represented both sides of the proposed transaction, serving as counsel to Virginia Kite and counsel to each of the Kite children. *Kite*, T.C. Memo. 2013-43, at *13, n.7.

[22]The attorney described the proposed transaction as an estate planning tool.

[23]Judge Elizabeth Crewson Paris recently issued an order severing the two cases from consolidation after receiving briefs on the Rule 155 determination. *See Estate of Kite v. Commissioner*, Nos. 6772-08 and 6773-08 (T.C. Oct. 22, 2013).

[24]*See* sections 2511 and 2512, and reg. section 25.1512-8.

[25]All parties agreed that if the use of the section 7520 tables was valid, the estate correctly calculated the value of the annuities.

[26]The IRS also cited her income tax returns, showing increased medical costs, for the years at issue.

[27]Reg. section 1.7520-3(b)(3).

[28]*Kite*, T.C. Memo. 2013-43, at *15.

[29]135 F.3d 1017 (5th Cir. 1998).

favorable *McLendon* decision, the *Kite* court determined that "Mrs. Kite was not precluded from relying on the IRS actuarial tables to value the annuity transaction."[30]

The government also argued that the annuity transaction was illusory. The court interpreted that as an argument that the sale was not bona fide, citing *Estate of Bongard v. Commissioner*.[31] In *Bongard*, the Tax Court interpreted a bona fide sale as one at arm's length.[32] Using this standard, the *Kite* court held that the annuity transaction was a bona fide sale and not illusory. In doing so, it distinguished the *Kite* facts from those in *Estate of Hurford v. Commissioner*.[33] In *Hurford*, the court held that the transfer of a surviving spouse's interest in a family limited partnership to her children for a private annuity was not bona fide because: (1) the surviving spouse had stage 3 liver cancer at the time; (2) the parties intended to ignore the agreements; and (3) the children did not have sufficient assets outside the FLP with which to make the annuity payments.

Unlike in *Hurford*, in *Kite*, the annuity agreements were enforceable and the children demonstrated their intention to comply with its terms.[34] The court cited a contribution to capital by Baldwin LP to KIC immediately before the annuity transaction as evidence that the children did not plan to rely solely on the existing assets in KIC to make the annuity payments. Further, the children did not take any distributions after the transaction, allowing the KIC assets to accumulate in order to provide liquidity for future annuity payments.

The Tax Court also determined that Virginia Kite intended to demand compliance and operated with a profit motive. The court cited her business acumen and active participation in her finances over the years. Unlike the surviving spouse in *Hurford*, Virginia Kite did not have cancer or any other terminal illness. Further, she did not need the KIC assets to live on. Before engaging in the transaction, she received assurances from the administrators of her various trusts that her personal assets could sustain her without the income from KIC. Accordingly, the Tax Court held that the annuity transaction was a bona fide sale, not a disguised gift.[35]

Section 2519 Disposition?

A QTIP election allows a marital deduction for the entire value of property passing to a trust, even though the surviving spouse has only a qualifying income interest for life.[36] The corollary to this deduction is that the statute includes the trust property in the surviving spouse's estate[37] or gift tax[38] base, although the spouse does not own the trust or control its ultimate disposition.[39] In that manner, the government is assured that the transfer tax avoided in the predeceased spouse's estate is collected in the surviving spouse's estate.

If the surviving spouse disposes of all or a part of her qualifying income interest, section 2519 treats it as a transfer of all interests in that property other than the qualifying income interest.[40] The *Kite* court grappled with the term "disposition" for purposes of section 2519. Under the regulations, a conversion of the QTIP property into other property in which the surviving spouse has a qualifying income interest for life is not a disposition.[41] Accordingly, the court found that the exchanges of QTIP assets in 1996 (for limited partnership interests), January 1998 (for Baldwin LP interests), May 1998 (for Baldwin notes), and 2000 (for KIC interests) were not section 2519 dispositions, because Virginia Kite continued to hold a qualifying income interest in the converted assets.

The Tax Court also determined that Virginia Kite's 1997 gift of a portion of the limited partnership interests owned by the marital trusts (including the QTIP trusts) to her children did not upset the deferral regime inherent in marital deduction rules. According to the court, "the QTIP trust assets, which avoided tax when transferred to the QTIP trusts upon Mr. Kite's death . . . [were] now taxable when transferred by Mrs. Kite" to her children.[42] Why did section 2519 not apply to this partial disposition of Virginia Kite's qualifying income interest? In transferring principal as a gift to her children, she also transferred an associated part of

---

[30]*Kite*, T.C. Memo. 2013-43, at *24.

[31]124 T.C. 95 (2005). The court's interpretation is an interesting analytical move. *Bongard* interpreted the section 2036 statutory exception for bona fide sales "for an adequate and full consideration." As noted by Steve Akers of Bessemer Trust, "there is not similar statutory language in section 2511, the gift tax statute." *See* Akers, "Estate of Kite v. Commissioner, T.C. Memo. 2013-43 (February 7, 2013)," *available at* http://www.bessemertrust.com/portal/binary/com.epicentric.contentmanagement.servlet.ContentDeliveryServlet/Advisor/Presentation/Print%20PDFs/Kite%20Summary_FINAL.pdf.

[32]*Bongard*, 124 T.C. at 123.

[33]T.C. Memo. 2008-278.

[34]*Kite*, T.C. Memo. 2013-43, at *25-*26.

[35]*Id.* at *28.

[36]Section 2056(b)(7).

[37]*See* section 2044.

[38]*See* section 2519.

[39]Although there is a right of recovery for any gift or estate tax paid by the surviving spouse (or the surviving spouse's estate) from the person receiving the property. *See* section 2207A and reg. section 2207A-1.

[40]Alternatively, if the surviving spouse enjoys the qualifying income interest until death, the property will be included in that spouse's gross estate. *See* section 2044.

[41]Reg. section 25.2519-1(f).

[42]*Id.* at *37-*38.

her qualifying income interest.[43] Presumably, the court interpreted the trust instruments in a manner that authorized the distribution of principal to Virginia Kite, who then, as owner, chose to gift the distributed property to her children.[44] In that case, section 2519 would not apply.[45]

The Tax Court did, however, find a section 2519 disposition in the annuity transaction. As stated above, in 2001 Virginia Kite appointed her children as trustees of the QTIP trusts, who then immediately terminated the marital trusts and transferred the assets (consisting of KIC interests) to their mother's revocable trust.[46] Virginia Kite's revocable trust then sold all its KIC interests to the Kite children. The court viewed those events as a single integrated transaction, wherein the assets of the QTIP trusts were sold to the children in exchange for deferred annuity agreements. Under the integrated view, the court held that the sale of the QTIP assets was a disposition of Virginia Kite's qualifying income interest for purposes of section 2519. As a result, there was a transfer of the underlying property subject to the qualifying income interest (less the value of the qualifying income interest). The court noted that "because Mrs. Kite received adequate and full consideration for her income interest in KIC, she did not make a gift of her qualifying income interest for life under section 2511."[47]

The Tax Court did not address the gift tax consequences of the section 2519 deemed transfer of the remainder interest in KIC. Several commentators argued that if the annuities were adequate and full consideration for the entire KIC interest (which the court previously held), there was no gift tax triggered on the deemed section 2519 transfer.[48] Recently, Judge Elizabeth Crewson Paris determined that Virginia Kite's gift tax deficiency for tax year 2001 was $816,206.[49] The court emphasized that the termination of the QTIP trusts triggered section 2519.[50] It viewed the annuity transaction as "an intermediary step between terminating the QTIP trusts and selling the QTIP trust assets to the Kite children designed to circumvent the QTIP regime."[51] Accordingly, that Virginia Kite received adequate consideration in the annuity transaction had no bearing on the fullness of consideration for the actual disposition of the qualifying income interest and deemed transfer of the remainder interest. According to the court, upon a section 2519 disposition, a surviving spouse can never receive adequate and full consideration for the remainder interest because it "is a future interest held by the remainderman and not the surviving spouse, and therefore cannot be transferred by the surviving spouse for consideration."[52]

Gift From Kite Children to Virginia Kite?

In a footnote citing LTR 9908033, the court mentioned the possibility that the termination of the QTIP trusts, and the subsequent liquidation of the trusts' assets in favor of Virginia Kite's revocable trust, may be a gift from the Kite children (as remaindermen) to their mother (as income beneficiary). In that private letter ruling, the surviving spouse, remainder beneficiaries (children), and trustee intended to terminate a QTIP trust and distribute its entire corpus to the surviving spouse, free of the trust. The IRS concluded that the proposed transfer would be a gift from the children to the surviving spouse. It argued that the children proposed to transfer a valuable property interest to the surviving spouse for less than adequate and full consideration, in a manner that would deplete their gross estate.

The children in the private letter ruling argued that under Rev. Rul. 98-8, 1998-1 C.B. 541, a remainder interest in a QTIP trust is treated as already owned by the spouse for transfer tax purposes, so a transfer to the spouse should not be treated as a gift.

---

[43]The tax consequences of viewing this as a partial disposition of Virginia Kite's qualifying income interest for life would be quite harsh. *See* reg. section 25.2519-1(g), Example 4. Section 2511 would tax the actuarial value of the income portion of the actual gifted property. Section 2519 would tax the entire remainder interest in the trust property. Section 2702 would value the retained income interest at zero, because the deemed transfer of the remainder interest is to her children, who are family members. As a result, the value of the section 2519 transfer would be increased by the amount of the retained income interest. Section 2036 would include a portion of the trust corpus in Virginia Kite's gross estate, if she held the retained income interest until death.

[44]Because Virginia Kite was the trustee, it is likely that the power to distribute principal to herself was limited to avoid its being considered a general power of appointment under sections 2514 and 2041.

[45]*See* reg. section 25.2519-1(e).

[46]The IRS argued that this was a breach of fiduciary duty on the part of the children as trustees; however, the court expressed reluctance "to question the Kite children's discretion, as trustees, to terminate the trusts pursuant to the terms of the trust agreements." *Kite*, T.C. Memo. 2013-43, at *39, n.36. Presumably, the court was referring to the power of the trustee "to terminate the trust at any time when, in the judgment of the trustee, the trust corpus was too small to justify management as a trust, or the trust should otherwise be terminated." *Id.* at *6.

[47]*Id.* at *43.

[48]*See* Akers, *supra* note 31, and Pennell, *supra* note 14 (both suggesting that this would be the result in the Rule 155 determination).

[49]*See Kite*, No. 6772-08 (T.C. Oct. 25, 2013) (order and decision under Tax Court Rule 155).

[50]The court cited Rev. Rul. 98-8 as support for this proposition.

[51]*Kite*, T.C. Memo. 2013-43, at *41.

[52]*Id.*

In Rev. Rul. 98-8, a surviving spouse purchased a remainder interest in a QTIP trust by issuing a promissory note equal to the actuarial value of the remainder interest to the remainderman, and then the trust terminated and the entire corpus was paid to the spouse, who then used those assets to pay off the note. The ruling concluded that the surviving spouse made a gift of property equal to the value of the remainder interest in the QTIP trust. The IRS theorized that the surviving spouse acquired an asset (the remainder interest in the QTIP trust) that was already subject to inclusion in the surviving spouse's transfer tax base. The ruling stated that "the receipt of an asset that does not effectively increase the value of the recipient's gross estate does not constitute adequate consideration for purposes of the gift and estate tax."[53]

In LTR 9908033, the IRS distinguished Rev. Rul. 98-8 by noting "the fact that the receipt of the remainder interest by the [s]pouse will not increase the value of her potential taxable estate [and hence is not adequate consideration for her transfer to the remainderman] is not pertinent to the determination of the Federal gift tax consequences to the [s]pouse's children upon transfer of their remainder interest to the surviving spouse for no consideration." If the children gratuitously transferred their interest to a non-spouse recipient, the transfer would be a gift. According to the IRS, the result is the same if the donee is the surviving spouse. Although the Service did not raise this issue in *Kite*, it certainly exists as a lurking threat for other taxpayers contemplating similar transactions.

Conclusion

In the Tax Court proceeding, the IRS only raised two of the four issues discussed in this commentary. That alone may be viewed as a taxpayer victory. Further, the court's holding that the deferred annuities constituted adequate and full consideration for the KIC interests is clearly a taxpayer win. Although the taxpayer ultimately lost on the gift tax consequences of the deemed transfer under section 2519, that included only $1,484,011 in Virginia Kite's transfer tax base. Assuming there is no further estate tax imposed,[54] the annuity transaction effectively excluded $9,121,267 from her estate.[55]

[53]Citing *Commissioner v. Wemyss*, 324 U.S. 303 (1945); and *Merrill v. Fahs*, 324 U.S. 308 (1945).

[54]The Tax Court has not yet determined the amount of any estate tax liability under Rule 155.

[55]The total value of Virginia Kite's 99 percent interest in KIC transferred by her revocable trust was $10,605,278, according to the court.