

Bridges v. United States
70-1 USTC ¶ 12,633, 25 AFTR2d 70-1495 (M.D. Fla. 1969)

[12,663] J.T. Bridges, Jr. and Virginia B. Chandler, as Co-executors of the Estate of J. T. Bridges, Sr., deceased, Plaintiffs v. United States of America, Defendant.
U. S. District Court, Middle Dist. Fla., Jacksonville Div., Case No. 67-700-Civ-J, 11/18/69.

[Code Sec. 2031]

Estate tax valuation -- Real estate--Accounts receivable--Notes and loans--Jury determination -- Based on the evidence, the jury found that the estate had correctly valued real estate subject to a timber-cutting contract, as well as various receivables. The Commissioner determined that the real estate had a value of \$125,354 and that the receivables a value of \$78,551. The jury found that the assets had a value of \$682,588 and \$59,284, respectively. See "Estate Tax" at ¶1201.30, 1204.05, 1215.11,

[Code Sec. 2035]

Estate tax -- Gross estate -- Transfers in contemplation of death -- Jury trial -- In its charge to the jury, the court discussed the applicable law, pointed out where the burden of proof lay, and enumerated the factors to be considered by the jury. Based upon the evidence, the jury found that numerous gifts, totaling \$60,275, to certain relatives were made in contemplation of death. See "Estate Tax" at ¶1440.384

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The Charge of the Court

THE COURT: Members of the Jury, now that you've heard the evidence, and have heard the argument of Counsel for the respective parties, the time has come for the Court to instruct you as to the law which is governing in this case.

Although you, as jurors, are the sole judges of the facts, you are nevertheless duty-bound to follow the law as stated in the instructions of the Court, and to apply the law so given to you to the facts as you find them from the evidence which is before you.

You are not to single out one instruction alone as stating the law, but you must consider the instructions as a whole; and neither are you to be concerned with the wisdom of any rule of law, because, regardless of any opinion that you may have as to what the law ought to be, it would be a violation of your sworn duty to base your verdict upon any other view of the law than that given in the instructions of the Court.

I instruct you, as a matter of law, that the determination by the Defendant, acting through the Treasury Department, is presumed to be correct; and the burden is therefore upon the Plaintiffs---the co-executors of the estate---to prove to your satisfaction all of the facts necessary to establish that the Defendant's determinations were incorrect. The burden is not upon the Defendant to prove the correctness of its determinations. If you find that there is substantial evidence to support the Defendant's determinations, then they must stand, and cannot be overturned.

The Plaintiffs have the burden of proof in this case, and what it amounts to is this:

That the Plaintiffs in this case, as in all civil cases, must show by the greater weight of the evidence that they have established their case.

This suit is brought against the United States of America because certain taxes sought to be recovered herein were paid to an agency of the United States--that is, to the United States Treasury Department. This is not a criminal action by the Govern-meat against the Plaintiffs, but is a civil action, brought by them to determine their liability for taxes--namely, estate taxes.

The issues presented for your consideration are concerned with the value of certain property, subject to a long-term timber-cutting contract and lease; the value of certain accounts receivable; loans and advances; notes and receivables; mortgages; and accrued interest receivable; and whether various gifts made by the Decedent within three years before his death were made by him in contemplation of death.

The first issue which you are concerned with concerns the valuation of the property which is subject to the long-term timber-cutting contract, and the lease. This property was reported on the estate tax return at a fair market value of \$682,588.54.

The Internal Revenue Service determined that the fair market value of that property was \$1,225,354.00.

It is for you, the Jury, to decide the fair market value of that property. It is the position of the Plaintiffs that the fair market value of that property was not in excess of \$682,588.54; it is the position of the Defendant, however, that the value of that property was not less than \$1,225,354.00.

I instruct you that this property which is subject to the long-term timber cutting contract and lease is includable in the Decedent's gross estate at its fair market value as of the date of death of the Decedent, Mr. Bridges.

The critical date, for purposes of determining this property's fair market value is, therefore, the date of Decedent's death, which was April the 6th of 1962.

As I have stated to you, you must determine the fair market value of this property at that critical date. The term "fair market value" means, in law, the price at which the property in question would change hands between a willing buyer and a willing seller, neither being under any

compulsion to buy or sell at the time in question, and both having reasonable knowledge of the relevant facts about the value of the property. Fair market value means what a willing buyer would have paid to a willing seller for this property on April 6, 1962,

neither party being under any compulsion to buy or to sell, and having adequate knowledge of the material facts that are affecting its value.

In reaching your determination as to the fair market value, you should take into consideration all of the facts, and all of the circumstances, as no one factor is conclusive. The weight or reliability of each item of evidence is for you to determine. All relevant factors and elements of value as of the applicable evaluation date---namely. April 6, 1962-- should be considered by you. You may consider the amount which is stated in the tax return filed for the estate as an admission of value as of the date of death. If the Plaintiffs prove to the satisfaction of the Jury that the determination of the value of this property by the Defendant was incorrect, then it will be your duty to determine that - what the value of the property was in some other amount

On the other hand if there is substantial evidence to support the determination of the Defendant, the Plaintiffs have failed to carry their burden, and the Defendant is entitled to a verdict that its determination was, in fact, correct.

In connection with the timber contract and lease to which the property was subject, I instruct you that Owens-Illinois Glass Company was obligated to make the annual payments, whether or not it cut any timber; and could be excused from that liability only in the event of war, acts of the public enemy, restrictions or prohibitions by the Government or agencies thereof, or by condemnation.

Now, the next issue which you must consider concerns the valuation of the various receivables. These various amounts receivable were reported on the estate tax return at a fair market value of \$59,284.17. The face value of the unpaid principal, plus interest, on these receivables was \$78,551.19; and the Internal Revenue Service determined that the fair market value of these assets was \$78,551.19.

It is for you, the Jury, to decide the fair market value of these assets as of the date of the Decedent's death.

It is the position of the Plaintiffs that the fair market value of these assets was not in excess of \$59,284.17.

It is the position of the Defendant, however, that the fair market value of these assets was not less than \$78,551.19.

I instruct you that the various amounts receivable in issue are includable in the Decedent's gross estate at their fair market value as of the date of death--which I'm sure you now hear in mind. Again, that critical date, for the purpose of the valuation, is the Decedent's date of death, April 6, 1962.

I instruct you that, unless it is established by the Plaintiffs, by the greater weight of the evidence, that the value was lower, or that these assets were worthless, the fair market value of these notes, and similar accounts receivable, is presumed, under the law, to be the full face value of the unpaid principal, plus accrued interest thereon.

[Valuation]

In determining the fair market value of these assets, you must bear in mind the meaning of the term "fair market value." Again, the question is, what would a willing buyer have paid a willing seller or these notes and the other accounts receivable, neither being under any compulsion to buy or sell on the date of death, April 6, 1962, If a willing buyer would not have paid a willing seller the face amount, the fair market value of these assets is something less than the their face value.

In determining the fair market value of these assets, you may take into account all of the credible evidence bearing on that question, including----but not necessarily limited to--the following:

The face amount of unpaid principal and interest; whether there was security or other evidence of the indebtedness and the value; the relationship between the parties; the expectation and likelihood of payment; the enforceability of payment, and whether the estate availed itself thereof; the age of the debts; whether and when the debts had been collected; and whether additional amounts were later advanced to the same debtors. No single value is determinative, and all may be considered by you, and given by you such weight as you may see fit.

A number of gifts in the total amount of \$60,275.37 were made by the Decedent to certain relatives within the three-year period before his death. These gifts were disclosed by the Plaintiffs on the estate tax return, but reported as not includable in the gross estate. The Internal Revenue Service determined that the gifts were made by the Decedent in contemplation of death, and were therefore includable in the gross estate,

It is for you to decide whether these gifts were made in contemplation of death.

[Gifts]

I instruct you that the value of gifts made by a Decedent in contemplation of death within the three years before his death is included in his gross estate. In this connection, I further charge you that any gifts made by a Decedent within the three-year period before his death are deemed, under the law, to have been made in contemplation of death, unless the Plaintiffs establish to the contrary by the greater weight of the evidence, Under the tax law, any gifts made by a decedent within the three-year period prior to his death are presumed to have been made in contemplation of death, unless the Plaintiffs establish to the contrary.

The presumptions created by the statute are not themselves evidence; they are merely a rule, the effect of which is to impose the burden of proof upon the Plaintiffs to establish, by the greater

weight of the evidence, that the gifts were not made in contemplation of death; therefore, the presumption that gifts made within the three-year period before Decedent's death is not evidence that such transfers were made in contemplation of death.

I will now define the term "in contemplation of death," because it's likely that you've not had occasion to have experience in this area. The phrase "in contemplation of death" does not have reference to that general expectation of death that all persons must necessarily entertain.

On the other hand, its meaning is not restricted to a fear or belief that death is imminent or near.

A transfer in contemplation of death is a disposition of property prompted by the thought that death---although the thought of death may not be the only thing so prompting---a transfer is prompted by the thought of death if it is made as a substitute for disposition of the property by will.

Two, made with the purpose of avoiding death taxes; or, three, it is made for any other motive associated with death.

A transfer of property by a decedent is made in contemplation of death if purposes which are associated with death enter into and form a substantial part of the deceased person's inducing motives. In determining whether a gift was made in contemplation of death, it is necessary to examine carefully the circumstances surrounding each transfer, in order to determine the motive of the decedent in making the gift, in view of his bodily and mental condition at the time of transfer. The thought of death must be the impelling cause of the transfer, but it is not necessary that the decedent have a belief that death is imminent, or near at hand. The gift may be made in contemplation of death, although immediate death is not expected, and is not feared.

The controlling test is whether or not the decedent was motivated, moved, or impelled by the same considerations that caused one to make a testamentary disposition that is, a disposition by will--without awaiting death, when the transfers would have become effective by will, by inheritance, or otherwise. A testamentary disposition of property means the disposal by will of property at one's death.

In making your determination whether or not the transfer made by the Defendant (sic) in this case was made in contemplation of death, you may consider the advice, if any, received by the Decedent concerning death taxes and estate planning. In order to determine whether these gifts were made in contemplation of death, you must determine the motive of the transferor, Mr. J. T. Bridges, Sr., at the time he made the transfers involved herein. You have to search for Mr. Bridges' motives--his state of mind, his intent, and his purposes. In determining this dominant motive of the Decedent in making the gifts in question, you should consider here such matters as we have had brought into evidence--including his bodily and mental condition; as to whether or not he was well, active and in good health; and in addition to these factors, other factors to be considered are the interval of time between the dates of the transfers and the date of Mr. Bridges' death; the amount of property given away, in proportion to the total assets owned by Mr. Bridges;

the relationship of Mr. Bridges to the recipients of the gifts, a plan disposing of his property at death; whether Mr. Bridges had an established history or policy of making similar-type gifts; the special needs of the children, and whether there was the existence of desire by Mr. Bridges to avoid estate taxes by giving his property away before his death.

None of these factors, necessarily, is conclusive within itself; you will determine his motives from all of them. Some of these factors indicate a death motive, and others indicate a life motive. If you find life motives prompted Mr. Bridges to make the, gifts, you should find for the Plaintiffs. If you find that death motives prompted Mr. Bridges to make the gifts, you should find for the Government.

In reaching your decision, Members of the Jury, the presumption that gifts made within the three-year period before a decedent's death is precisely stated to be a rebuttal, and the mere fact that death follows even shortly after the gift does not determine that it is necessarily in contemplation of death.

Special Interrogatories to Jury

I. What was the fair market value of the property subject to the timber cutting contract and lease as of the date of death, April 6, 1962?

Answer: \$682,588.54.

(Answer the question by filling in an amount of dollars in the space provided, not more than \$1,225,354.00, nor less than 682,588.54)

II. What was the fair market value of the following assets as of the date of death, April 6, 1962:

(a) The accounts receivable from employees ?

Answer: \$700.00.

(Answer the question by filling in an amount of dollars in the space provided, not more than \$987.69, nor less than \$700.00.)

(b) The sundry loans and advances to persons in pulpwood operations?

Answer: \$2,000.00.

(Answer the question by filling in an amount of dollars in the space provided, not more than \$3,543.71, nor less than

(d) The accrued interest on those unsecured notes receivable?

Answer: \$262.49.

(Answer the question by filling in an amount of dollars in the space provided, not more than \$349.98, nor less than \$262.49.)

(e) The secured mortgages and mortgage notes secured by real estate and chattels?

Answer: \$41,658.00.

(Answer the question by filling in an amount of dollars in the space provided, not more than \$52,072.54, nor less than \$41,658.00.)

(f) The accrued interest on those secured mortgages and mortgage notes?

Answer: \$1,951.56.

(Answer the question by filling in an amount of dollars in the space provided, not more than

\$2,314.45, nor less than \$1,951.56.)

III. Have the plaintiffs established by the greater weight of the evidence that the decedent did not make the following gifts in contemplation of death:

(a) The gift to Addle Belle Bridges of \$5,517 on May 16, 19597

Answer: No.

(b) The gift to J. T. Bridges, Jr., of \$4,329.72 on May 22, 19597

Answer: No.

(c) The gift to Janice B. Brooks of \$2,000 on December 31, 19597

Answer: No.

(d) The gift to J. T. Bridges, Jr., of \$2,000 on December 31, 19597

Answer: No.

(e) The gift to Marilyn B. Sabin of \$2000 on December 31, 19597

Answer: No.

(f) The gift to Virginia B. Chandler of \$2,000 on December 31, 19597

Answer: No.

(g) The gift to Doris Bridges of \$1,000 on January 1, 19607 (for' cash price of watch)

Answer: No.

(h) The gift to Addle Belle Bridges of \$4,000 on April 25, 19607

Answer: No.

(i) The gift to Addle Belle Bridges of \$5,517 on May 5, 19607

Answer: No.

(j) The gift to Janice B. Brooks of \$1,500 on December 31, 19607

Answer: No.

(k) The gift to Marilyn B. Sabin of \$1,500 on December 31, 19607

Answer: No.

(l) The gift to Virginia B. Chandler of \$1,500 on December 31, 19607

Answer: No.

(m) The gift to J. T. Bridges, Jr., of \$1,500 on December 31, 19607

Answer: No.

(n) The gift to Addle Belle Bridges of \$2,000 on February 15, 19617

Answer: No.

(o) The gift to Addle Belle Bridges of \$4,138 on May 9, 19617

Answer: No.

(p) The gift to Addle Belle Bridges of \$2,000 on December 30, 19617

Answer: No.

(q) The gift to Janice B. Brooks of \$2,000 on December 30, 19617

Answer: No.

(r) The gift to Marilyn B. Sabin of \$2,000 on December 30, 19617

Answer: No.

(s) The gift to Virginia B. Chandler of \$2,000 on December 30, 19617

Answer: No.

(t) The gift to J. T. Bridges, Jr., of \$2,000 on December 30, 19617

Answer: No.

(u) The gift to J. T. Bridges, Jr., of \$1,176.35 on December 31, 1967 (for cancellation of indebtedness)

Answer: No.

(v) The gift to Cindy Chandler of \$3,080.50 on January 6, 1967 (gift of 1962 Chevrolet)

Answer: No.

(w) The gift to Addle Belle Bridges of \$5,517 on February 21, 1967?

Answer: No.