

# VALUE MATTERS®

Gift, Estate, & Income Tax Valuation Insights Newsletter

## When a Large Ownership Block Doesn't Mean Control *Valuation Lessons from Grieve v. Commissioner*

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### EXECUTIVE SUMMARY

A large ownership interest does not necessarily convey control, a distinction with important implications for gift and estate tax valuations. In *Grieve v. Commissioner*, T.C. Memo. 2020-28, the U.S. Tax Court accepted discounts for lack of control and lack of marketability on ownership interests representing 99.8% of the economic interests in two family-owned LLCs.

Although the transferred interests represented nearly all of the entities' economic value, they carried no voting rights or authority over management decisions.

The Court also rejected the IRS expert's assumption that a hypothetical buyer could acquire the remaining voting interests to obtain control, finding insufficient evidence that such a transaction was reasonably probable.

The decision underscores the importance of evaluating the specific rights associated with an ownership interest rather than relying solely on its percentage ownership.

For those advising clients on ownership transfers, *Grieve* highlights the need for careful review of governing documents, voting and distribution rights, transfer restrictions, and liquidity provisions.

It also reinforces the importance of well-supported valuation discounts that reflect the economic characteristics of the transferred interest and the circumstances existing on the valuation date.

A 99.8% ownership interest sounds like control. In many companies, it would be. But the percentage of an entity's equity held by an investor does not, by itself, establish what that investor can do. Voting rights, management authority, distribution policies, and the ability to sell or liquidate the entity may be allocated differently from the economic interest.

That distinction is central to valuing large blocks of noncontrolling shares or membership interests. A holder may be entitled to nearly all of an entity's economic benefits while having little authority over when those benefits will be realized. The Tax Court's decision in *Grieve v. Commissioner* T.C. Memo. 2020-28, provides an example: the Court accepted discounts for lack of control and lack of marketability on interests representing 99.8% of two family LLCs. The decision illustrates why an appraisal must begin with the rights attached to the interest being valued, rather than its ownership percentage alone.

## What Does the Interest Actually Control?

Consider an entity with two classes of membership units. One class holds almost all of the economic interest but has no voting power. The other holds only a small economic interest but has the power to appoint management and direct decisions. A buyer of the first class would receive most of the proceeds if the entity were liquidated. The buyer might have no ability, however, to cause that liquidation, direct management decisions, or require distributions.

Those limits can affect the price a willing buyer would pay. The buyer must consider how long capital might remain invested, who will make decisions in the meantime, and what avenues exist to obtain liquidity. The significance of each limit depends on the governing documents and the entity's circumstances. A regular distribution policy, enforceable redemption right, or near-term exit could mitigate the effect of limited voting power. An indefinite holding period and broad manager discretion could make it more consequential.

For gift tax purposes, fair market value is generally the price at which the specific interest would change hands between a hypothetical willing buyer and willing seller, neither under compulsion and both reasonably informed. An appraisal should identify an interest's voting, economic, transfer, and exit rights before selecting a valuation method or discount.

*The buyer must consider how long capital might remain invested, who will make decisions in the meantime, and what avenues exist to obtain liquidity.*

## Two Discounts – Two Economic Questions

For an asset-holding entity, appraisers often begin with net asset value: the market value of the entity's assets less its liabilities. The next question is how much of that value is attributable to the particular ownership interest. A pro rata share of net asset value is typically the starting point, but that pro rata share may represent a different level of value from a noncontrolling, illiquid interest.

A discount for lack of control addresses the holder's inability to direct decisions that affect value. These may include distributions, asset sales, management appointments, influence over management, or liquidation. The relevant issue is the practical authority conveyed by the interest. A large nonvoting block can lack control; a smaller block with meaningful consent or veto rights may warrant different treatment.

A discount for lack of marketability addresses the difficulty of converting the interest to cash. Closely held interests generally lack a ready public market. Transfer approvals, a limited buyer pool, the absence of redemption rights, and uncertainty about future distributions can further reduce liquidity. These considerations are distinct from control, although the same facts may influence both. The appraisal should explain how each discount addresses a separate economic limitation in order to avoid counting the same limitation twice.

The discounts are normally applied sequentially. For example, a 15% lack of control discount followed by a 25% lack of marketability discount produces a combined discount of 36.25%, because the second discount applies to the value remaining after the first. Adding the two percentages would overstate the reduction.

Market evidence can inform the analysis, but it needs interpretation. Prices of closed-end funds relative to their net asset values may provide evidence about interests whose owners cannot direct management decisions or compel liquidation. Restricted stock transactions may inform the cost of limited liquidity. Neither comparison perfectly replicates a privately held LLC interest. The appraiser must explain how differences in assets, distributions, regulation, holding period, and exit prospects affect the selected discounts.

## The 99.8% Interests in *Grieve*

Pierson Grieve transferred Class B units representing 99.8% of the economic interests in Rabbit 1, LLC (“Rabbit”), and Angus MacDonald, LLC (“Angus”), in separate 2013 transactions. Rabbit held principally the stock of a publicly traded company, Ecolab, and cash; Angus held cash and other investments, including interests in private funds and promissory notes.

A management company owned by Grieve’s daughter held the remaining 0.2% interests through Class A units. Those units carried all voting power. The Class B units carried none. Grieve’s daughter served as chief manager of both LLCs, and the operating agreements gave her a lifetime appointment, subject to removal for cause. Transfers of units outside specified permitted-transferee categories generally required the consent of the Class A holder.

A Class B holder had nearly all of each LLC’s economic interest, yet could not vote in member proceedings. The Class B holder’s ability to realize the value of the underlying assets depended substantially on decisions made by the holder of the Class A units.

The appraisals attached to Grieve’s gift tax return used the adjusted net asset method and then applied discounts to the Class B interests. They selected lack of control discounts of 13.4% for Rabbit and 12.7% for Angus, followed by a 25% lack of marketability discount for each. The sequential discounts reduced the pro rata indications by approximately 35.1% and 34.5%, respectively. The reported values of the transferred interests were approximately \$5.9 million for Rabbit and \$20.9 million for Angus. The discounts drew on closed-end fund and restricted stock evidence.

The Court ultimately adopted the discounts in the original appraisals, while using the parties’ stipulated net asset value for Rabbit and the originally reported net asset value for Angus. The resulting analysis is more nuanced than saying the court approved a standard discount for a 99.8% interest: it evaluated the rights of these particular nonvoting units and the competing valuation evidence.

***A Class B holder had nearly all of each LLC’s economic interest, yet could not vote in member proceedings.***

## Could the Voting Interest Be Acquired?

The IRS expert proposed a different approach. In his view, a hypothetical seller or buyer of the 99.8% Class B block would seek to purchase the 0.2% Class A voting interest. Combining the two classes would eliminate the principal control limitation. Rather than applying conventional discounts to the Class B units, he estimated a premium that might be paid for the Class A units and subtracted it from the undiscounted value attributable to the Class B units. His resulting values were substantially higher than those reported by the taxpayer.

The economic incentive behind the theory is understandable: control over nearly all of an entity's assets could be valuable to the Class B holder. But a transaction that would be advantageous if completed is not necessarily one that a market participant could reasonably expect to complete.

The Class A owner testified that she had no intention of selling and that, if she did sell, she would demand substantially more than the premiums assumed by the IRS expert. The Court found no showing that a purchase of those units was reasonably probable. It also found insufficient support for the expert's assumed premiums and rejected his valuations. The Court focused on the value of the Class B interests on the gift dates, rather than the value those interests might have after a speculative acquisition of another person's voting rights.

This does not mean that a potential route to control can never affect value. If an enforceable option, an agreement to sell, or other credible evidence made a transaction reasonably probable as of the valuation date, a hypothetical buyer might consider it. In *Grieve*, the proposed purchase was an unsupported additional step, and the Court would not build the Class B valuation around it.

## What Appraisers and Advisors Can Take from the Decision

*Grieve* is useful because it separates three questions that are sometimes compressed into one: How large is the economic interest? What authority comes with it? How and when can its owner turn that interest into cash? The ownership percentage being considered answers only the first question.

The case also shows the importance of consistent source values. The taxpayer's trial expert proposed a lower net asset value for Angus than the value attached to the original gift tax return. The Court retained the originally reported amount, finding insufficient justification to replace that prior admission with a lower figure. A defensible discount analysis cannot cure an unsupported change in the underlying asset value.

The valuation discounts applied and accepted in *Grieve* should not be treated as a template. The Court's acceptance of 13.4% and 12.7% discounts for lack of control and 25% discounts for lack of marketability was due to the support for the discounts based on the subject interest's rights and analysis of market data relative to the subject interest. Different voting provisions, distribution practices, assets, transfer rights, or prospects for liquidity could support different conclusions. Other transfer tax rules may also affect whether particular restrictions or arrangements are respected, an issue advisors should evaluate with counsel.

For a large ownership block, the appraisal's most important work may occur before the discount percentages are selected. The appraisal should review the governing documents, identify who can make economically significant decisions, assess the interest's likely path to liquidity, and connect those findings to relevant market evidence. *Grieve* demonstrates that substantial economic ownership and control can reside in different hands. Fair market value must reflect the interest a buyer would actually acquire.

***For a large ownership block, the appraisal's most important work may occur before the discount percentages are selected.***

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Thomas C. Insalaco  
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**Greater Miami:** November 17, 2026  
**Naples:** November 18, 2026  
**Central Florida:** December 8, 2026

- Thomas C. Insalaco, CFA, ASA

*"Navigating Business Valuations:  
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## CONFERENCE ATTENDANCE

### ABA RPTE - 2026 Fall Leadership Meeting

October 28-30, 2026  
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- Timothy K. Bronza, CPA, ASA

## CONFERENCE ATTENDANCE

### Florida Bar RPPTL Executive Council Meeting

November 11-14, 2026  
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- Thomas C. Insalaco, CFA, ASA

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- Travis W. Harms, CFA, CPA, ABV

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### 61st Annual Heckerling Institute on Estate Planning

January 11-15, 2027  
Orlando, FL

- Timothy K. Bronza, CPA, ASA
- Thomas C. Insalaco, CFA, ASA
- Lucas M. Parris, CFA, ASA-BV/IA

## SPONSORSHIP

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February 28 - March 4, 2027  
Grand Wailea, Maui, HI

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### The 2027 Calfee Tax Institute

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- Timothy K. Bronza, CPA, ASA
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- Worthless Securities – IRC §165

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