

TABLE OF CONTENTS

Introduction

| | |
|---------------------|----------------|
| <i>Introduction</i> | <i>Intro-1</i> |
|---------------------|----------------|

Chapter 1—Internal Revenue Code

| | |
|--|-------------|
| <i>§ 409A. Inclusion in gross income of deferred compensation under nonqualified deferred compensation plans</i> | <i>1-1</i> |
| <i>§ 1060. Special allocation rules for certain asset acquisitions</i> | <i>1-10</i> |
| <i>§ 1374. Tax imposed on certain built-in gains</i> | <i>1-13</i> |
| <i>§ 2031. Definition of gross estate</i> | <i>1-19</i> |
| <i>§ 2032. Alternate valuation</i> | <i>1-25</i> |
| <i>§ 2036. Transfers with retained life estate</i> | <i>1-28</i> |
| <i>§ 2044. Certain property for which marital deduction was previously allowed</i> | <i>1-31</i> |
| <i>§ 2511. Transfers in general</i> | <i>1-32</i> |
| <i>§ 2512. Valuation of gifts</i> | <i>1-34</i> |
| <i>§ 2701. Special valuation rules in case of transfers of certain interests in corporations or partnerships</i> | <i>1-35</i> |
| <i>§ 2702. Special valuation rules in case of transfers of interests in trusts</i> | <i>1-44</i> |
| <i>§ 2703. Certain rights and restrictions disregarded</i> | <i>1-47</i> |
| <i>§ 2704. Treatment of certain lapsing rights and restrictions</i> | <i>1-48</i> |
| <i>§ 6501. Limitations on assessment and collection</i> | <i>1-50</i> |
| <i>§ 6662. Imposition of accuracy-related penalty on underpayments</i> | <i>1-69</i> |

Chapter 2—Treasury Regulations

| | |
|--|-------------|
| <i>Sec. 20.2031-1 Definition of gross estate; valuation of property</i> | <i>2-1</i> |
| <i>Sec. 20.2031-3 Valuation of interests in businesses</i> | <i>2-4</i> |
| <i>Sec. 25.2703-1 Property subject to restrictive arrangements</i> | <i>2-5</i> |
| <i>Sec. 25.2703-2 Effective date</i> | <i>2-8</i> |
| <i>Sec. 25.2704-1 Lapse of certain rights</i> | <i>2-9</i> |
| <i>Sec. 25.2704-2 Transfers subject to applicable restrictions</i> | <i>2-13</i> |
| <i>Sec. 25.2704-3 Effective date</i> | <i>2-15</i> |
| <i>Sec. 301.6501(c)-1 Exceptions to general period of limitations on assessment and collection</i> | <i>2-16</i> |

Chapter 3—Revenue Rulings and Procedures

| | |
|--|------|
| <i>59-60 Valuing Shares of Capital Stock of Closely Held Corporations for Estate and Gift Tax Purposes</i> | 3-1 |
| <i>65-192 Applying 59-60 to Income Tax Valuations</i> | 3-7 |
| <i>65-193 Modification of 59-60 Regarding Tangible and Intangible Assets</i> | 3-11 |
| <i>68-609 Excess Earnings Method</i> | 3-12 |
| <i>77-287 Valuation of Restricted Stock</i> | 3-14 |
| <i>83-120 Closely Held and Preferred Stock</i> | 3-19 |
| <i>85-75 Penalty for Valuation Overstatement</i> | 3-22 |
| <i>93-12 Closely Held Interests and Family Transfers</i> | 3-24 |
| <i>98-34 Compensatory Stock Options</i> | 3-25 |
| <i>Rev. Proc. 2003-51 Allocation of lump sum purchases of a business</i> | 3-28 |
| <i>2006-96 Guidance Regarding Appraisal Requirements for Noncash Charitable Contributions</i> | 3-32 |

Chapter 4—Landmark Cases

| | |
|--|------|
| <i>Index of Cases by Topic</i> | 4-A |
| <i>Astleford v. Commissioner</i> | 4-1 |
| <i>Astleford Has it All: Latest Tax Court Case on FLP Discounts, Data, and More</i> | 4-1 |
| <i>Dallas v. Commissioner</i> | 4-5 |
| <i>Tax Court Declines to Tax-Affect S Corp In Gift Transfer Case</i> | 4-5 |
| <i>Tax Court Rejects Tax-Affecting of S Corporation</i> | 4-7 |
| <i>Daubert v. Merrell Dow Pharmaceuticals</i> | 4-9 |
| <i>Comparing the Butler-Pinkerton Model to Traditional Methods Under Four Daubert Criteria</i> | 4-9 |
| <i>'Intrinsic Value' Doesn't Meet Daubert Criteria</i> | 4-13 |
| <i>Valuation Experts Required To Have Clear Credentials, Experience, and Methods</i> | 4-14 |
| <i>Experienced (but Uncertified) Expert Caught in Deposition</i> | 4-15 |
| <i>Gross v. Commissioner (II)</i> | 4-18 |
| <i>Daubert issue rears its ugly head in Gross case</i> | 4-18 |
| <i>Estate of Jelke v. Comm'r</i> | 4-20 |
| <i>Jelke Overruled: 11th Cir. Approves 100% Discount For Imbedded Capital Gains</i> | 4-20 |
| <i>Divorce Court Analyzes Built-In Capital Gains and Net Asset Value in Divorce</i> | 4-23 |

| | |
|---|------|
| <i>Delaware Open MRI Radiology Associates, P.A. v. Kessler, et al</i> | 4-24 |
| <i>Must-read Opinion from Chancery Court on Tax Affecting, DCF Discounts, and More</i> | 4-24 |
| <i>Kumho Tire Co. v. Carmichael</i> | 4-30 |
| <i>Federal cases challenge financial experts on basis of Daubert/Kumho tests</i> | 4-30 |
| <i>State courts consider application of Daubert/Kumho tests to appraisal experts</i> | 4-34 |
| <i>Implications of Kumho for Business Appraisal Experts</i> | 4-36 |
| <i>Daubert/Kumho state challenges to appraisal experts</i> | 4-41 |
| <i>Mandelbaum v. Commissioner</i> | 4-43 |
| <i>Minority Share Gifts: Court Finds 30% Discount for Lack of Marketability</i> | 4-43 |
| <i>Tax Court provides list of factors to consider in determining the size of a marketability discount</i> | 4-44 |
| <i>McCord v. Commissioner of Internal Revenue</i> | 4-45 |
| <i>5th Circuit Reverses McCord, Confirming Original Valuation Of Marketability Discounts</i> | 4-45 |
| <i>McCord Reversed: Fifth Circuit Affirms Use of Fixed Dollar Gifts of Limited Partnership Interests</i> | 4-47 |
| <i>After McCord: The Future Of FLP Valuations and Discount Determinations</i> | 4-49 |
| <i>In re Med Diversified, Inc.</i> | 4-51 |
| <i>BV on Trial in Bankruptcy? New York Court Excludes Appraisal as ‘Junk Science’</i> | 4-51 |
| <i>Where Perceived Bias Infects Entire Valuation, Expert Excluded as Unreliable under FRE 702(3)</i> | 4-54 |
| <i>NY Bankruptcy Court Confirms Valuation of Customer Lists, With High Praise for Valuator</i> | 4-56 |
| <i>Estate of Mirowski v. Commissioner</i> | 4-60 |
| <i>Good News on FLP and LLC Planning—Appraisals Have Value!</i> | 4-60 |

Chapter 5—Additional Cases

| | |
|--|-----|
| <i>Estate of Abraham v. Commissioner</i> | 5-1 |
| <i>First Circuit Affirms FLP Case Against Taxpayer</i> | 5-1 |
| <i>Remainder Interest in FLP Units Argument Rejected</i> | 5-2 |
| <i>Patricia M. Adams, et al. v. United States of America</i> | 5-3 |
| <i>Assignee Interest Not Subject to Liquidation Rights</i> | 5-3 |

| | |
|---|------|
| <i>Estate of Baird v. Commissioner</i> | 5-5 |
| <i>Hypothetical Partition Discount is Insufficient for Fractionalized, Non-controlling Interests</i> | 5-5 |
| <i>Fully Documented and Supported Appraisal Reports Helped Put IRS on Notice That Its Litigation Position Was Unsupportable</i> | 5-6 |
| <i>Estate of Berg v. Commissioner</i> | 5-7 |
| <i>Estate of Berg v. Commissioner</i> | 5-7 |
| <i>Bergquist v. Commissioner</i> | 5-8 |
| <i>Tax Court Rejects Appraisal of Donated Stock for Incorrect Premise of Value</i> | 5-8 |
| <i>Bernier v. Bernier</i> | 5-11 |
| <i>Debate over Tax-Affecting Plays Out in New Divorce Case</i> | 5-11 |
| <i>Estate of Bigelow v. Commissioner</i> | 5-13 |
| <i>FLP Disregarded Where Decedent Retains Insufficient Funds</i> | 5-13 |
| <i>Section 2036(a) Applied to Recapture the Value of Real Property Transferred to FLP</i> | 5-14 |
| <i>Estate of Brocato v. Commissioner</i> | 5-15 |
| <i>11% Blockage Discount Applied in Apartment Valuations</i> | 5-15 |
| <i>Crescent/Mach I Partnership v. Turner</i> | 5-17 |
| <i>Del. Chancery's Preference For DCF Turns On Credible Projections</i> | 5-17 |
| <i>Estate of Deputy v. Commissioner</i> | 5-22 |
| <i>Tax Court Accepts Negative Industry Risk Premium and Unique Combined Discount Matrix</i> | 5-22 |
| <i>Income Approach Used to Value Boat Manufacturer</i> | 5-27 |
| <i>Derby v. Comm'r</i> | 5-29 |
| <i>Tax Court Examines Charitable Deduction</i> | 5-29 |
| <i>Estate of Dunn v. Commissioner (I)</i> | 5-33 |
| <i>Equipment Company Valuation Turns on Asset- and Earnings-based Values</i> | 5-33 |
| <i>Heavy Equipment Rental Company Valued Using Weighted Earnings and Asset Approaches</i> | 5-35 |
| <i>Estate of Weinberg v. Commissioner</i> | 5-37 |
| <i>Tax Court Rejects QMDM and Use of Single Comparable</i> | 5-37 |
| <i>Quantitative Marketability Discount Model Determined Unhelpful</i> | 5-39 |
| <i>Estate of Ray A. Ford v. CIR</i> | 5-41 |
| <i>Holding Company's Valued Using Net Asset Value</i> | 5-41 |
| <i>Richard S. Gesoff v. IIC Industries Inc.</i> | 5-43 |
| <i>Small-Stock and Company Specific Risk Premia Considered in Fair Value Analysis</i> | 5-43 |

| | |
|---|------|
| <i>Estate of Gimbel v. Commissioner</i> | 5-45 |
| <i>Tax Court Determines Methodology, Discounts for Large Block of Public Shares</i> | 5-45 |
| <i>Gow v. Commissioner (II)</i> | 5-47 |
| <i>Fourth Circuit Affirms Gow v. Commissioner</i> | 5-47 |
| <i>Voting Trust Not a Factor in Determining Fair Market Value</i> | 5-48 |
| <i>Estate of Green v. Commissioner</i> | 5-49 |
| <i>DLOM major issue; Tax Court ‘splits the baby’</i> | 5-49 |
| <i>Fair Market Value of Minority Interest in a Closely Held Bank Determined</i> | 5-52 |
| <i>Gross v. Commissioner</i> | 5-54 |
| <i>IRS and Taxpayer Agree to 35% DLOM— if FLP Transfers Pass ‘Indirect Gift’ Tests</i> | 5-54 |
| <i>Hackl v. Commissioner</i> | 5-56 |
| <i>Seventh Circuit Affirms Tax Court; Gifts Were of Future Interests</i> | 5-56 |
| <i>Seventh Circuit Affirms Decision Denying Application of Sec. 2503 Exclusion Where the Restrictions on Transferability Attached to LLC Units Are Severe</i> | 5-56 |
| <i>Hansen v. 75 Ranch Company</i> | 5-57 |
| <i>Montana Dissenter Awarded Double Amount Originally Offered</i> | 5-57 |
| <i>Harmon v. Harmon</i> | 5-59 |
| <i>Buy-sell Agreement One Factor in Value of Medical Practice</i> | 5-59 |
| <i>Value of an Interest in a Medical Practice Is Not Set by the Buy-Sell Provision</i> | 5-60 |
| <i>Estate of Heck v. Commissioner</i> | 5-61 |
| <i>Tax Court Rejects Use of Single ‘Similar’ Comparable S Corp. Valued Using DCF Method</i> | 5-63 |
| <i>Highfields Capital, Ltd. v. AXA Financial, Inc.</i> | 5-66 |
| <i>Del. Chancery Rejects DCF Analysis in Insurance Co. Appraisal</i> | 5-66 |
| <i>Estate of Hillgren v. Commissioner</i> | 5-70 |
| <i>Tax Court Disregards FLP That is Disregarded by Taxpayer Sec. 2036(a) Applied to Look Through an FLP</i> | 5-71 |
| <i>Holman v. Commissioner</i> | 5-73 |
| <i>Tax Court Takes Novel Approach to DLOM Holding Period in Holman</i> | 5-73 |
| <i>Huber v. Commissioner</i> | 5-78 |
| <i>‘Friends and Family’ Gifts of Private Stock Support 50% DLOM ‘Arm’s-Length’ Determined Using Morrissey Test</i> | 5-79 |

| | |
|---|-------|
| <i>Estate of Hurford v. Comm’r</i> | 5-80 |
| <i>Latest FLP Case Lists ‘Bad Facts’ to Avoid</i> | 5-80 |
| <i>Estate of Jameson v. Commissioner</i> | 5-83 |
| <i>Fifth Circuit Acknowledges Substantial Built-in Tax Liability on Timber Property</i> | 5-83 |
| <i>Janda v. Commissioner</i> | 5-85 |
| <i>Tax Court Considers QMDM and Restricted Stock Studies in Determining Discount for Lack of Marketability</i> | 5-85 |
| <i>Quantitative Marketability Discount Model Rejected</i> | 5-88 |
| <i>Kimberlin v. Comm’r.</i> | 5-89 |
| <i>IRS Stumbles on Characterization and Valuation of Stock Warrants</i> | 5-89 |
| <i>Kohler et al. v. Commissioner</i> | 5-91 |
| <i>Kohler: Textbook Valuation of Large Closely-Held Leads to Total Victory for Taxpayer</i> | 5-91 |
| <i>Tax Court Emphasizes Importance of Valuation Credentials and Familiarity with the Subject Company</i> | 5-94 |
| <i>LabelGraphics, Inc. v. Commissioner (II)</i> | 5-96 |
| <i>Ninth Circuit Affirms Tax Court Reasonable Compensation Ruling</i> | 5-96 |
| <i>Litman v. United States</i> | 5-97 |
| <i>Litman a New Landmark Among Cases Considering Restricted Stock Discounts</i> | 5-97 |
| <i>Mad Auto Wrecking v. CIR</i> | 5-101 |
| <i>Tax Court Provides List of Factors to Consider in Determining the Appropriate Amount of Owners’ Compensation</i> | 5-101 |
| <i>Martin Ice Cream Company y. CIR</i> | 5-102 |
| <i>Sale of Subsidiary after Split-off Does Not Establish Value of that Subsidiary</i> | 5-102 |
| <i>Estate of Mellinger v. Commissioner</i> | 5-103 |
| <i>Frederick’s of Hollywood Stock Not Aggregated for Valuation; 25% Blockage Discount Applied</i> | 5-103 |
| <i>Aggregation and Blockage Considered</i> | 5-104 |
| <i>Estate of Mitchell v. Commissioner (II)</i> | 5-105 |
| <i>Ninth Circuit Vacates and Remands Tax Court’s Valuation in Mitchell</i> | 5-105 |
| <i>Normandie Metal Fabricators, Inc. v. CIR</i> | 5-107 |
| <i>Hypothetical Investor Test Used to Determine Officers’ Reasonable Compensation</i> | 5-107 |
| <i>Peracchio v. Commissioner</i> | 5-110 |
| <i>Tax Court Displeased With All Experts’ DLOC and DLOM Analyses</i> | 5-110 |
| <i>Limited Partnership Units Valued</i> | 5-112 |

| | |
|---|-------|
| <i>Estate of Lillie Rosen v. Internal Revenue Service</i> | 5-113 |
| ‘Classic’ FLP Case by Judge Laro Finds No §2036 Estate Tax Exception | 5-113 |
| <i>Salt Lake Tribune Publishing Co., LLC v. Management Planning, Inc.</i> | 5-115 |
| Appraisal ≠ Arbitration; a Court May Review Buy-Sell Valuation for Certain Errors | 5-115 |
| <i>Estate of Simplot v. Commissioner (I)</i> | 5-117 |
| Tax Court Accords Superpremium to Small Voting Block; Allows Deduction of 100% of Trapped-in Capital Gains Tax | 5-117 |
| Voting Privileges Valued as a Percentage of the Company’s Total Equity Value | 5-120 |
| Comments on the Reversal of Simplot | 5-123 |
| <i>Stone v. United States</i> | 5-126 |
| Do BV Methods Apply to Determining Discount for Fractional Interest in Art? | 5-126 |
| <i>Strangi v. Commissioner</i> | 5-129 |
| Fifth Circuit Affirms Tax Court’s Application of § 2036 to FLP Assets | 5-129 |
| Bona Fide Sale Exception to Sec. 2036 Analyzed | 5-130 |
| <i>Temple v. United States</i> | 5-132 |
| Latest Court Looks at DLOM: Assumptions Are Everything | 5-132 |
| Standard Valuation Discounts Considered | 5-134 |
| <i>Estate of Thompson v. Comm’r</i> | 5-135 |
| IRS Burden of Proof Does Not Obviate Errors In Taxpayer Valuation | 5-135 |
| FLPs Disregarded—2036(a)(1) Applied Once Again! | 5-137 |
| Third Circuit Addresses Sec. 2036(a) Exception in FLP Case | 5-138 |
| <i>Estate of True v. Commissioner</i> | 5-140 |
| Buy-sell Agreements are Testamentary Devices | 5-140 |
| <i>Univ. of Pittsburgh v. Townsend</i> | 5-144 |
| Federal Court Clarifies Rule on Discovery of Draft Valuation Reports | 5-144 |
| <i>Wechsler v. Wechsler</i> | 5-146 |
| Appeals Court Affirms Dollar-for-Dollar Discount in Divorce | 5-146 |

Chapter 6—Standards

| | |
|--|------|
| <i>AICPA Valuation of a Business, Business Ownership Interest, Security, or Intangible Asset</i> | 6-1 |
| <i>AICPA Code of Professional Conduct: Section 101—Independence</i> | 6-75 |

| | |
|---|--------------|
| <i>AICPA Code of Professional Conduct: Section 102—Integrity and Objectivity</i> | 6-117 |
| <i>AICPA Code of Professional Conduct: ET Section 201—General Standards</i> | 6-121 |
| <i>AICPA Code of Professional Conduct: ET Section 202—Compliance with Standards</i> | 6-123 |
| <i>AICPA Code of Professional Conduct: Section 301—Confidential Client Information</i> | 6-124 |
| <i>AICPA Code of Professional Conduct: Section 302—Contingent Fees</i> | 6-126 |
| <i>AICPA Code of Professional Conduct: Section 501—Arts Discreditable</i> | 6-129 |
| <i>ASA Principles of Appraisal Practice and Code of Ethics</i> | 6-134 |
| <i>ASA Business Valuation Standards</i> | 6-155 |
| <i>IBA Business Appraisal Standards</i> | 6-178 |
| <i>FASB Summary of Statement No. 123 (revised 2004)</i> | 6-212 |
| <i>FASB Summary of Statement No. 141 (revised 2007)</i> | 6-216 |
| <i>FASB Summary of Statement No. 142</i> | 6-220 |
| <i>FASB Summary of Statement No. 144</i> | 6-222 |
| <i>FASB Summary of Statement No. 157</i> | 6-225 |
| <i>FASB Summary of Statement No. 159</i> | 6-228 |
| <i>NACVA Professional Standards</i> | 6-230 |

Chapter 7—Appendix of Key Valuation Articles and Other Material

| | |
|--|-------------|
| <i>4th Quarter 2008 Economic Outlook Update™</i> | 7-1 |
| <i>Reporting Standards Update: What all BV Analysts Must Know</i> | 7-14 |
| <i>Courtesy of the IRS: 22 Ways to Avoid Appraisal Missteps</i> | 7-20 |
| <i>Summary of FAS 157, Fair Value Measurements</i> | 7-23 |
| <i>Federal and Regional Reporter’s List</i> | 7-26 |
| <i>Goodwill Hunting in Divorce</i> | 7-32 |
| <i>BVR’s Professional Association Directory 2009 Edition</i> | 7-39 |