SDRVentures

SUPREME COURT RULING DEMONSTRATES THE VALUE OF PROFESSIONAL ADVICE

***"Now my advice for those who die, declare the pennies on your eyes, 'cause I'm the taxman"* – The Beatles, 1966**

It's said nothing is certain except death and taxes. In June, the U.S. Supreme Court ruled sometimes they go hand in hand with a unanimous decision against a couple of small business owners who thought they'd engineered a clever tax-advantage way around transfer of ownership taxes using life insurance policies.

We see once again nobody is an expert in everything. That's why we hire specialists to help us make the best decisions we can for ourselves and our families. Paying for advice, in our experience, is usually worth the expense in saved time, money, and heartache.

In the case of Connelly v. United States, two brothers, Michael and Thomas Connelly, were co-owners of a small but successful building supply company in St. Louis, Missouri called Crown C. Supply. Michael owned roughly 75% of the shares, and Thomas owned the rest, about a quarter of the business. To ensure the business stayed in the family should one of them die, the brothers had the company buy life insurance policies on both of them, and then they agreed in the event of one's a death, the company would be obligated to use the proceeds of the insurance to purchase the deceased brother's shares, leaving the other brother the sole shareholder.

The intention apparently was that the surviving brother would be left ownership of the company while avoiding an excessive inheritance tax burden. The way they figured, the company's obligation to buy the outstanding shares constituted a company liability, an expense offsetting the insurance payment. So, when Michael died, the company received $3 million in insurance money, but that, the survivor argued, wasn't really a company asset that he inherited by becoming sole owner, because the company had a "liability" of an equal amount because it was required to buy the deceased brother's shares.

The IRS disagreed, the courts ruled, and the surviving brother is left owing $890,000 in additional inheritance taxes. The Connelly decision, while garnering little mainstream media attention, put a powerful new tool – a ruling from the highest court in the land – in the hands of the IRS. Are you really, really sure those succession plans you've been drawing up are iron clad?

The ruling should nudge small business owners everywhere to revisit any of what they believe are clever workarounds, especially when it comes to money. A qualified financial, legal, and tax professional can review any "interesting" ways a business may have devised around rules. Better to catch an error early and correct it than to find yourself named in a landmark court case.

The ruling is stuffed with mathematical examples of valuations and the effects of share redemptions. But we believe the details are not the most important lesson here. The court itself, in the ruling even suggests alternate tax-advantaged succession plans may remain useful, and a well-known Supreme Court blog, SCOTUSblog, said there is "every reason to think that the highly skilled tax planners of our economy will find a way to solve this problem."

What's important is the reminder that you are an expert at running your own business, but not at everything else. How many times have professionals had to clean up a homeowner's DIY efforts?

If you're a widget producer, you most likely hire a professional when the factory plumbing comes apart, or a roofer when there's a leak. If you're going to get into the weeds in matters you're not expert in, whether that's borrowing or investing or setting up succession plans or, ultimately transferring out of your business, professional guidance can maximize value and keep you out of trouble.

As the Connelly brothers learned, a shortcut is often the longest distance between two points.

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