

Tax Court Crunches Numbers on Michael Jackson Estate

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The Tax Court has concluded that pop icon Michael Jackson's image and likeness was worth \$4.2 million when he died in June 2009, rejecting the IRS's position that it was worth \$161 million.

Judge Mark V. Holmes's [271-page decision](#) in *Estate of Michael J. Jackson v. Commissioner*, issued May 3, assigned values to three intangible assets that the IRS and Jackson's estate couldn't agree on: his image and likeness, his 50 percent interest in Sony/ATV Music Publishing, and his stake in the entity that owns Jackson's songs.

Jackson's estate filed a Tax Court petition in July 2013 [disputing the IRS's assertion](#) that it significantly undervalued the value of its assets. Executors had claimed the estate was worth \$7.2 million when he died, while the IRS put the figure at \$1.125 billion. The agency said the estate owed \$505 million in taxes, plus an additional \$197 million in penalties.

The estate was represented by the California firm of which IRS Commissioner Charles Rettig was a member. He [withdrew as counsel](#) from the case in June 2018 while awaiting a Senate confirmation hearing.

The value of Jackson's image and likeness was one of the most contentious areas of dispute. The estate reported on its return that it was worth only \$2,105, relying on an appraisal from the accounting firm Moss Adams LLP. At trial, the estate's expert testified that Jackson's image and likeness was worth around \$3.1 million, while the IRS's expert put it at \$161.3 million. The experts' disagreement over the proper discount rate and projected future revenue stream accounted for the huge disparity.

According to Holmes, the value of Jackson's image and likeness on the date of his death was \$4.2 million.

Holmes criticized the IRS expert's valuation as "fantasy," saying the expert valued the wrong asset, included unforeseeable events in his valuation, and miscalculated the assets' value.

The IRS expert's failure to adequately consider Jackson's poor personal reputation was a major flaw, Holmes said. "Any projection that finds a torrent of revenue, and not just a trickle, from such a

man's image and likeness — especially one who in the last two years of his life was so unpopular he did not even have a Q score — is simply not reasonable," he wrote.

The estate expert's analysis of Jackson's image and likeness "is much closer to reality," Holmes said.

Other Assets

The second asset addressed by Holmes was the New Horizon Trust II (NHT II), a Delaware trust in which Jackson held his 50 percent interest in Sony/ATV. The estate said it had a negative value of \$139 million (because its liabilities exceeded its assets) and therefore was valueless when Jackson died, while the IRS expert contended it was worth \$206.3 million.

Holmes agreed that NHT II was valueless. He said the IRS's expert "looked at the wrong data, because he treated Sony/ATV as a music catalog and not an operating business in the music-publishing industry."

"Sony/ATV was *not* just a music catalog," Holmes added (emphasis in original). "It had employees and corporate infrastructure to acquire and exploit both old *and* new songs; it didn't have to pay anyone else to administer the songs it owned, but it did have to constantly invest in acquisition and development."

The third asset analyzed in the opinion is the New Horizon Trust III (NHT III), whose major asset was Mijac Music, which owns copyrights in compositions from Jackson and other musicians. According to Holmes, Mijac was the most difficult asset to value because its income derives from five different groups of songs, and each group produces income from three different sources.

"And sometimes distinctions must be made between domestic and international income," Holmes added.

The estate valued NHT III at \$2.3 million, while the IRS put it at \$114.3 million. Holmes concluded it was worth \$107.3 million.

Holmes further found that the estate doesn't owe penalties because it correctly valued NHT II and had reasonable cause when it estimated the values of the other assets.

Steven Toscher of Hochman Salkin Toscher Perez PC called the Tax Court's decision a vindication of the estate's positions at trial and noted its significance. "Importantly, it is the first opinion of the Tax

Court dealing with the value of name and likeness,” said Toscher, a member of the trial team representing the estate.

In addition to Toscher’s firm, the petitioner in *Estate of Michael J. Jackson v. Commissioner*, T.C. Memo. 2021-48, was represented by attorneys from Hoffman, Sabban & Watenmaker APC.

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