T.C. Memo. 1942-628

Funds withdrawn from a joint bank account and placed into another account remain includible in the decedent's gross estate under Section 811(e) of the Internal Revenue Code, absent an agreement severing the joint tenancy or proof that the funds originally belonged to the surviving tenant.

Summary

The Tax Court addressed whether funds withdrawn from a joint bank account by the decedent's wife shortly before his death, and deposited into accounts solely in her name, should be included in the decedent's gross estate for estate tax purposes. The court held that the funds remained includible because the joint tenancy was never severed by agreement, and the petitioner failed to prove the funds originally belonged to the wife. The ruling underscores the importance of establishing separate property rights and documenting any agreements to sever joint tenancies to avoid inclusion in the gross estate.

Facts

Harold W. Glancy held several bank accounts in joint tenancy with his wife. Shortly before his death, while Glancy was in a coma, his wife withdrew funds from these joint accounts and deposited them into new accounts solely in her name. The Commissioner determined a deficiency in the estate tax, arguing that the funds in the accounts held solely in the wife's name were still includible in the decedent's gross estate.

Procedural History

The Commissioner determined a deficiency in the estate tax. The Estate of Harold W. Glancy petitioned the Tax Court for a redetermination of the deficiency. The Tax Court reviewed the Commissioner's determination.

Issue(s)

Whether funds withdrawn from a joint bank account by one joint tenant and deposited into an account solely in that tenant's name are includible in the decedent's gross estate under Section 811(e) of the Internal Revenue Code.

Holding

Yes, because the joint tenancy was never severed by agreement, and the petitioner failed to prove that the funds originally belonged to the wife.

Court's Reasoning

The court relied on Section 811(e) of the Internal Revenue Code, which includes in

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the gross estate the value of property held as joint tenants or deposited in joint names and payable to either or the survivor. The court noted California law, which presumes that property acquired with funds from a joint tenancy account retains its character as joint property, unless there is an agreement to the contrary. The court stated that “contrary to the rule of the common law… it has become the established principle in California that, if money is taken from a joint tenancy account during the joint lives of the depositors, property acquired by the money so withdrawn, or another account into which the money is traced, will retain its character as property held in joint tenancy like the original fund, unless there has been a change in the character by some agreement between the parties.” Since the decedent was in a coma and unable to enter into an agreement, the court found no evidence of an agreement to sever the joint tenancy. Furthermore, the petitioner failed to prove that the funds originally belonged to the wife. The court emphasized that the Commissioner’s determination is presumed correct, and the burden is on the petitioner to prove it erroneous.

Practical Implications

This case emphasizes the importance of formally severing a joint tenancy if the intention is to change the ownership of property held jointly. Absent a clear agreement, funds withdrawn from a joint account remain subject to the joint tenancy rules for estate tax purposes, especially in community property states like California. Attorneys should advise clients to document any agreements regarding the disposition of joint property and to understand that merely transferring funds from a joint account to an individual account may not be sufficient to remove the funds from the decedent’s gross estate. Later cases would likely distinguish situations where clear evidence of intent to sever the joint tenancy existed or where the surviving spouse could prove contribution to the joint account with separate property.

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