Farish v. Commissioner, 2 T.C. 969 (1943)

When calculating cumulative gift tax liability, prior gift amounts should be determined based on the law applicable to the year the present gift is made, not necessarily bound by erroneous exclusions allowed in prior, settled tax years.

Summary

The Farish case addresses how to calculate net prior gifts when determining gift tax liability for a given year. The taxpayers argued that because the IRS had previously conceded certain gift exclusions in earlier tax years (1934 and 1935), those erroneous exclusions should continue to be factored into the net prior gifts calculation for the 1938 tax year. The Tax Court held that the net prior gifts should be determined based on the correct interpretation of the tax law in effect for the 1938 tax year, regardless of prior concessions. This ruling emphasizes that cumulative tax calculations must adhere to current legal standards.

Facts

Libby Rice Farish and W.S. Farish made gifts to trusts in 1938. To calculate their gift tax liability, the cumulative gift tax provisions required determining “net gifts” for 1938 and all prior years. In prior tax years (1934 and 1935), the IRS erroneously allowed exclusions relating to gifts of future interests to the trusts. The taxpayers and the IRS had previously settled gift tax deficiencies for 1934 and 1935 based on those exclusions. In calculating the 1938 gift tax, the IRS reduced the specific exemption applicable to prior years from $50,000 to $40,000, and included the previously allowed exclusions in the ‘net prior gifts’.

Procedural History

The Commissioner of Internal Revenue determined deficiencies in the petitioners’ gift taxes for the year 1938. The taxpayers petitioned the Tax Court for redetermination of these deficiencies. The prior gift tax deficiencies for 1934 and 1935 involving the same taxpayers and trusts had been settled before the Board of Tax Appeals in 38 B.T.A. 638, based on concessions by the IRS regarding the exclusions. The Tax Court here considered the issue of whether those prior settlements controlled the calculation of net prior gifts for 1938.

Issue(s)

Whether, in calculating the cumulative gift tax for 1938, the

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