Estate of Wetherill v. Commissioner, 4 T.C. 678 (1945)

A charitable bequest is deductible for estate tax purposes even if the trust instrument permits invasion of the corpus for the life beneficiary's benefit, provided that the possibility of such invasion is remote and the amount of the charitable gift can be ascertained with reasonable certainty.

Summary

The Tax Court addressed whether an estate could deduct a charitable bequest when the trust allowed for invasion of the corpus for the benefit of the decedent's wife. The court held that the deduction was permissible because the wife had substantial independent means, lived modestly, and was unlikely to invade the corpus. The court reasoned that the standard for invasion was fixed and ascertainable, distinguishing it from cases where the trustee had broad discretion to provide for the beneficiary's happiness or pleasure, which would render the charitable gift too speculative.

Facts

Decedent created a trust with income payable to his wife, Mrs. Wetherill, for life, with the remainder to the Board of Regents of the University of Colorado. The trust allowed the trustee to invade the principal for Mrs. Wetherill's "care, maintenance, and support" and for extraordinary expenses due to injury, illness, or disability, provided she stated that she had insufficient funds for such expenses. Mrs. Wetherill had an estate of approximately $110,000. She never requested funds from the trust, even refusing income distributions. Her living expenses, including nursing home costs, did not exceed her own income. The estate sought to deduct the charitable remainder interest from the estate tax.

Procedural History

The Commissioner of Internal Revenue disallowed the deduction for the charitable bequest. The Estate of Wetherill petitioned the Tax Court for review.

Issue(s)

Whether the estate's right to a deduction under Section 812(d) of the Internal Revenue Code is defeated by the fact that the trust instrument permitted the invasion of the trust corpus for the benefit of the decedent's wife, thus making the value of the gift to the charity unascertainable.

Holding

No, because the possibility of invasion of the trust corpus was remote due to the wife's substantial independent means and modest lifestyle, making the value of the charitable bequest ascertainable with reasonable certainty.

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Court’s Reasoning

The court distinguished cases where the trust instrument allows broad discretion for the trustee to invade the corpus for the beneficiary’s happiness or pleasure, which renders the charitable bequest too speculative for a deduction. Here, the standard for invasion was fixed and capable of being stated in definite terms of money, similar to the standard in *Ithaca Trust Co. v. United States*, 279 U.S. 151 (1929). The court emphasized that provisions relating to illness, injury, or incapacity “do not enlarge or extend the nature of the prescribed expenditures, but merely define and emphasize them. They are of the kind normally expected in the preservation and continuation of the beneficiary’s usual mode of living.” The court also noted that Mrs. Wetherill had ample independent means, lived modestly, and expressed interest in the charity. The court concluded, “In the instant case there is substantial evidence to support the finding of the Tax Court concerning the remoteness of invasion of the trust corpus… The taxpayer has shown with sufficient certainty that the entire amount of the principal will be available for charitable purposes in accordance with the directions in the will by a showing of the beneficiary’s advanced age, frugality over a long period of time, and independent means.”

Practical Implications

This case illustrates that the deductibility of charitable bequests subject to potential invasion of the corpus hinges on the specificity of the invasion standard and the likelihood of invasion. Attorneys drafting trust instruments should use clear and objective standards for invasion (e.g., maintaining the beneficiary’s current standard of living) rather than subjective standards (e.g., providing for the beneficiary’s happiness). When evaluating similar cases, courts will consider the beneficiary’s financial resources, lifestyle, age, and health to determine the probability of invasion. This case emphasizes the importance of establishing that the beneficiary’s needs can be met from other sources, thereby minimizing the likelihood of corpus invasion and preserving the charitable deduction. This ruling is still relevant in assessing the deductibility of charitable remainders in trusts with potential invasion clauses under current tax law.

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