5 T.C. 645 (1945)

Expenses related to property held as tenants by the entirety, even though included in the gross estate for federal tax purposes, are not deductible as administration expenses if they are not allowed as such under the laws of the jurisdiction administering the estate.

Summary

The Tax Court addressed whether expenses paid by a surviving spouse related to property held as tenants by the entirety could be deducted as administration expenses from the gross estate for federal estate tax purposes. The court held that because Pennsylvania law did not allow these expenses as part of the estate administration, they were not deductible under Section 812(b)(2) of the Internal Revenue Code, even though the entirety property was included in the gross estate for tax calculation.

Facts

Robert H. Hartley died in Pennsylvania, owning personal property and real estate with his wife as tenants by the entirety. His will was probated, and executors were appointed. The estate tax return included the entirety property in the gross estate. The executors claimed deductions for $4,500 in executor commissions and $4,500 in attorneys' fees. The Commissioner only allowed $700 and $500, respectively, representing the amounts approved by the Orphans' Court in Pennsylvania. The executors and the widow agreed that she would pay an additional $3,800 in commissions and $4,000 in attorney's fees related to preparing the federal estate tax return and handling issues related to the entirety property.

Procedural History

The Commissioner disallowed a portion of the claimed deductions for executor commissions and attorney's fees. The executors petitioned the Tax Court, contesting the deficiency assessment.

Issue(s)

Whether expenses paid by the surviving spouse concerning property held as tenants by the entirety, included in the gross estate for federal estate tax purposes, are deductible as administration expenses under Section 812(b)(2) of the Internal Revenue Code when such expenses are not allowed by state law as administration expenses of the estate.

Holding

No, because Section 812 of the Internal Revenue Code allows deductions for administration expenses only to the extent they are permitted by the laws of the

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jurisdiction under which the estate is being administered, and Pennsylvania law did not allow for the deduction of these expenses related to the entirety property.

Court's Reasoning

The Court relied on the explicit language of Section 812 of the Internal Revenue Code, which allows deductions for administration expenses "as are allowed by the laws of the jurisdiction…under which the estate is being administered." The court noted that the Commissioner had already allowed the full amount of executor commissions and attorneys' fees approved by the Pennsylvania Orphans' Court. The additional amounts the widow agreed to pay were not considered expenses of administering the decedent's estate under Pennsylvania law because Pennsylvania law did not consider property held as tenants by the entirety part of the estate for administration purposes. Therefore, these expenses were not chargeable against the decedent's estate under state law. The Court stated, "The items here in controversy are not deductible under those statutes and, therefore, can not be allowed."

Practical Implications

This case clarifies that for estate tax purposes, the deductibility of administration expenses is strictly tied to what is allowable under the laws of the jurisdiction administering the estate. Even if property is included in the gross estate for federal tax calculations (like property held as tenants by the entirety), expenses related to that property are not deductible as administration expenses unless state law considers them as such. This ruling emphasizes the importance of understanding both federal tax law and the relevant state law regarding estate administration. Later cases would need to consider whether expenses were legitimately part of the estate administration under state law to be deductible for federal estate tax purposes. This principle helps attorneys and executors determine which expenses can be legitimately deducted, impacting the overall tax liability of the estate.

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