Kaufmann v. Commissioner, 4 B.T.A. 456 (1926)

To constitute a valid gift inter vivos, the donor must have a clear and unmistakable intention to absolutely and irrevocably divest themself of title, dominion, and control of the subject matter of the gift, in praesenti (immediately).

Summary

The Board of Tax Appeals addressed whether Edgar J. Kaufmann made a gift of stock to his siblings in 1921 or 1925. The timing was crucial for determining the correct basis for calculating deficiencies. The court held that the evidence did not support a finding that a gift was made in 1921, because Edgar did not demonstrate a clear and unmistakable intention to irrevocably relinquish control of the stock at that time. His actions, like retaining dividend control and mentioning the stock's disposition upon his death, indicated a lack of present donative intent.

Facts

Edgar J. Kaufmann transferred 1,000 shares of stock to his sister, Martha, and a like amount to his brother, Oliver. In a letter to Martha dated June 22, 1921, Edgar stated the stock was pledged at a bank against a loan he made for their father's estate. He also informed her that he was making the transfer to avoid federal tax on the dividends, which would be sent to her quarterly. He told her she wasn't obligated to return the dividends, but also said, "in case of my death I will have to depend upon your settling this stock satisfactorily with my estate." Edgar sent a letter to Kaufmann Department Stores, Inc., instructing them to pay the dividends as directed "until further notice."
Oliver's transfer was made orally, and he claimed the arrangement was identical to Martha's. The stock remained in Edgar's name, and no formal assignment was made to Oliver. Both siblings received dividends on the stock.

Procedural History

The Commissioner of Internal Revenue determined deficiencies against the petitioners, arguing the stock gifts occurred in 1925. The petitioners appealed to the Board of Tax Appeals, contending the gifts occurred in 1921, thus warranting a different basis for calculating tax liability. The Board of Tax Appeals reviewed the evidence to determine the timing of the gifts.

Issue(s)

Whether Edgar J. Kaufmann demonstrated a clear and unmistakable intention to absolutely and irrevocably divest himself of the title, dominion, and control of the shares of stock in 1921, thus constituting a valid gift inter vivos at that time.

Holding

© 2025 SCOTUSreports.com. All rights reserved.

No, because Edgar's actions and communications surrounding the stock transfer indicated he did not intend to relinquish complete control or ownership of the shares in 1921. His reservation of rights, such as directing dividend payments and referencing the stock's disposition upon his death, were inconsistent with a present, irrevocable gift.

Court's Reasoning

The court relied on the established elements of a valid gift inter vivos, as outlined in *Adolph Weil, 31 B. T. A. 899*, emphasizing the need for a clear and unmistakable intent to relinquish control. The court found that Edgar's letter to Martha, specifying that she should not feel obligated to return the dividends and instructing her to settle the stock with his estate upon his death, indicated he did not intend a complete and irrevocable transfer. The letter to Kaufmann Department Stores, Inc., directing dividend payments "until further notice," further suggested Edgar retained control over the shares. The court emphasized the absence of any physical delivery of the stock certificates or formal assignment of title to either sibling. The court stated, "We think that the evidence does not show an intent on the part of Edgar absolutely and irrevocably to divest himself of the title, dominion, and control of the subject matter of the gift."

Practical Implications

This case underscores the importance of demonstrating clear and unequivocal intent when making a gift, especially when dealing with intangible property like stocks. To ensure a valid gift, donors must relinquish all dominion and control over the property. Retaining rights to dividends, specifying conditions for future disposition, or failing to deliver physical evidence of ownership can negate the donative intent. This case serves as a reminder to legal practitioners to advise clients to execute formal transfer documents and avoid any actions that could suggest continued control over gifted assets. The principles outlined in *Kaufmann* continue to be relevant in determining whether a valid gift has been made for tax and estate planning purposes.

© 2025 SCOTUSreports.com. All rights reserved.