8 T.C. 1015 (1947)

A year's support allowance paid to a surviving spouse is includible in the gross estate for federal estate tax purposes but is only deductible if the surviving spouse was dependent upon the decedent.

Summary

The Tax Court addressed whether a $5,000 allowance granted to a widower by a Missouri probate court for one year's support was includible in the decedent's gross estate and deductible for federal estate tax purposes. The court held that the allowance was includible in the gross estate. Further, the court determined the allowance was not deductible because there was no showing that the widower was dependent upon the decedent, as required by the Internal Revenue Code for deductibility.

Facts

Daisy W. Jacobs died testate in Missouri in June 1942, and her widower, Samuel A. Jacobs, was appointed as the executor of her estate. The gross estate was valued at $122,750.54. Samuel, the widower, petitioned the probate court for a $6,000 allowance for his support for one year, stating he had been unemployed for over three years. The probate court granted him $5,000. The widower had independent means before and after his wife's death. The Commissioner of Internal Revenue disallowed the $5,000 claimed as a deduction on the estate tax return.

Procedural History

The Commissioner determined an estate tax deficiency. The estate petitioned the Tax Court, arguing the $5,000 allowance should either be excluded from the gross estate or be allowed as a deduction. The Tax Court reviewed the Commissioner's determination.

Issue(s)

1. Whether the $5,000 year's support allowance is includible in the decedent's gross estate for federal estate tax purposes.
2. If the allowance is includible, whether the estate is entitled to a deduction for the allowance under Section 812(b)(5) of the Internal Revenue Code.

Holding

1. Yes, because the item is includible in the gross estate under the law as it now stands.
2. No, because there was no showing that the widower was dependent upon the decedent as required under section 812(b)(5) of the Internal Revenue Code.

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Court’s Reasoning

The court reasoned that while state law determines legal interests and rights, federal law dictates which of those interests are included or excluded for federal taxation. The court distinguished *Randolph v. Craig*, a case holding that a year’s support allowance was not includible in the gross estate, because that case was decided under a prior version of the Revenue Act that required the property to be subject to charges against the estate. The current version of the law, Section 811(a) of the Internal Revenue Code, only requires consideration of “the interests therein of the decedent at the time of his death.”

Regarding the deduction, the court considered Section 812(b)(5), which allows deductions for amounts

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