Estate of Gade v. Commissioner, 10 T.C. 585 (1948)

Funds held by a U.S. bank under an agency agreement for a non-resident alien are excluded from the decedent's gross estate under Section 863(b) of the Internal Revenue Code, as "moneys deposited with any person carrying on the banking business."

Summary

The Tax Court held that funds held by The Northern Trust Company in Chicago under an agency agreement for a non-resident alien, F. Herman Gade, were excluded from his gross estate for estate tax purposes. The court reasoned that the funds constituted "moneys deposited with any person carrying on the banking business" under Section 863(b) of the Internal Revenue Code, even though they were managed through a trust department and not held in a conventional checking account. The legislative intent to encourage foreign investment by ensuring competitive treatment for American banks was a significant factor in the decision.

Facts

F. Herman Gade, a non-resident alien residing in France, entered into an "Agency Agreement" with The Northern Trust Company (the bank) in Chicago. The bank acted as Gade's agent and custodian, managing his securities and investments. The bank collected income and principal, holding the net income subject to Gade's instructions. Prior to restrictions due to World War II, the bank disbursed $250 monthly to Gade. Upon Gade's death, the bank held $84,691.54 in cash for him.

Procedural History

The Commissioner of Internal Revenue determined a deficiency in Gade's estate tax, including the funds held by The Northern Trust Company in the gross estate. The estate petitioned the Tax Court for a redetermination of the deficiency. The Tax Court reviewed the Commissioner's decision.

Issue(s)

Whether funds held by a U.S. bank under an agency agreement for a non-resident alien are excluded from the decedent's gross estate as "moneys deposited with any person carrying on the banking business" under Section 863(b) of the Internal Revenue Code.

Holding

Yes, because the funds meet the literal requirements of Section 863(b), and the legislative purpose of the section was to encourage foreign investment in U.S. banks by placing them on equal footing with foreign banks.

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Court’s Reasoning

The court emphasized the literal language of Section 863(b), which excludes from the gross estate “any moneys deposited with any person carrying on the banking business, by or for a nonresident not a citizen of the United States who was not engaged in business in the United States at the time of his death.” The court found that the funds in question were indeed money, deposited with a bank, and owned by a qualifying non-resident alien. The court also considered the legislative intent behind Section 863(b), which was to encourage foreign investment in American banks by ensuring they were not at a disadvantage compared to foreign banks. The court noted that limiting the exclusion to conventional savings or checking accounts would fail to fully accomplish this objective. The court cited *Burnet v. Brooks*, 288 U.S. 378, emphasizing that Congress created an “express exception, in order to exclude such deposits from the tax.” The court distinguished *Magruder v. Safe Deposit & Trust Co. of Baltimore*, noting the “practical, commercial, functional approach” should still align with the statute’s intent.

Practical Implications

This case clarifies that the exclusion for bank deposits held by non-resident aliens extends beyond traditional checking or savings accounts to include funds held under agency agreements managed by a bank’s trust department. It reinforces the importance of examining the legislative intent behind tax provisions, particularly when interpreting terms like “deposit.” It means that when determining whether funds held by a bank for a non-resident alien are subject to estate tax, legal professionals should look beyond the specific type of account and consider the overall banking relationship and the purpose of the statutory exclusion. Later cases would need to consider whether specific arrangements fall within the scope of “banking business” and serve the purpose of attracting foreign investment.

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