Estate of Rose, 1948, 8 T.C. 514

A bequest of specific, identifiable property, such as closely held stock, is considered a specific legacy, and its value is excluded when calculating executor's commissions for estate tax deduction purposes.

Summary

The Tax Court addressed whether a bequest of stock in two theatre corporations constituted a specific legacy. The executors sought to include the value of this stock in calculating their commissions, thereby increasing the estate tax deduction. The court held that the testator's intent, as evidenced by the will's language and the nature of the stock, indicated a specific legacy. Therefore, the value of the stock was excluded from the calculation of the executors' commissions, reducing the allowable deduction.

Facts

The decedent, Rose, bequeathed to Rose Small the shares of stock he held in Interboro Theatres, Inc. and Popular Theatres, Inc., including any successor stock or proceeds from these holdings. The will directed that this bequest be distributed before the remaining residuary estate. Rose Small, or her husband, was granted significant control over the disposition of these specific stocks. The stock was closely held and not publicly traded.

Procedural History

The executors of Rose's estate sought to deduct executors' commissions based on the total value of the estate, including the theatre stock. The Commissioner of Internal Revenue disallowed the inclusion of the stock's value in the commission calculation. The case was brought before the Tax Court to determine the nature of the bequest and its impact on the deductible commissions.

Issue(s)

Whether the bequest of stock in Interboro Theatres, Inc. and Popular Theatres, Inc. constituted a specific legacy, thus excluding its value from the calculation of executors' commissions for estate tax deduction purposes.

Holding

Yes, because the testator intended a specific bequest, demonstrated by the language of the will, the control granted to the beneficiary over the stock, and the nature of the closely held stock itself.

Court's Reasoning

© 2025 SCOTUSreports.com. All rights reserved.

The court emphasized the testator's intention, stating that it must "be derived from the language used in the bequest, construed in the light thrown upon it by all the other provisions of the will." The court found that the testator's reference to "the shares of capital stock that I have" indicated a specific designation. The testator's specific instructions regarding the stock's disposition, granting control to Rose Small, further supported the intention to create a specific legacy. The court noted that the stock was closely held and not publicly traded, reinforcing the conclusion that the testator intended to bequeath a particular asset rather than a general sum. The court cited Crawford v. McCarthy, stating that a specific legacy is "a bequest of a specified part of the testator's personal estate distinguished from all others of the same kind." The inclusion of the gift in the residuary clause and the timing of devolution were deemed not preclusive of specific legacy status.

Practical Implications

This case clarifies the factors courts consider when determining whether a bequest is specific or general for the purpose of calculating executor's commissions and estate tax deductions. The decision highlights the importance of clear and precise language in wills to accurately reflect the testator's intent. Attorneys drafting wills should carefully consider the implications of designating specific assets, particularly closely held stock, and advise clients accordingly. This case informs how similar cases should be analyzed by emphasizing the testator's intent as revealed by the will's language, the nature of the bequeathed property, and the degree of control granted to the beneficiary over the asset. Later cases will likely cite Estate of Rose when dealing with similar bequests, especially those involving closely held assets, to determine whether they qualify as specific legacies.

© 2025 SCOTUSreports.com. All rights reserved.