11 T.C. 525 (1948)

A bequest of specific, identifiable property, like particular shares of stock, is a "specific legacy" under New York law 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 was a specific or general legacy to determine the allowable deduction for executors' commissions in an estate tax return. The decedent's will bequeathed specific shares of stock to his daughter. The IRS argued this was a specific legacy, excluded from the estate's value when calculating commissions under New York law. The executors contended it was a general bequest. The court held the bequest was specific, thus its value was excluded from the commission calculation, reducing the deductible amount for estate tax purposes. This decision hinged on the testator's intent to bequeath particular assets, not a general monetary value.

Facts

Abraham Werbelovsky died in 1940, a resident of New York, leaving a will. His will bequeathed specific shares of stock in Interboro Theatres, Inc., and Popular Theatres, Inc., to his daughter, Rose Small. The will also directed that these specific stock holdings were to be managed at the discretion of Rose Small and her husband. The decedent's estate tax return claimed a deduction for executors' commissions that included the value of these stock holdings in the calculation. The IRS disallowed part of the deduction, arguing that the stock bequest was a specific legacy under New York law and should be excluded from the calculation of the executors' commissions.

Procedural History

The Commissioner of Internal Revenue determined a deficiency in the estate tax and disallowed a portion of the deduction claimed for executors' commissions. The executors petitioned the Tax Court for a redetermination. Initially, the parties were to stipulate on the commission issue, but they failed to agree. The Tax Court then held further proceedings and issued a supplemental opinion focusing solely on whether the stock bequest was a specific or general legacy.

Issue(s)

Whether the bequest of stock in Interboro Theatres, Inc., and Popular Theatres, Inc., to Rose Small constituted a specific legacy under New York law.

Holding

Yes, because the testator intended to bequeath specific, identifiable property (the

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shares of stock he held in particular companies) rather than a general sum of money or assets to be chosen later.

Court’s Reasoning

The court reasoned 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 key is the testator’s intent, derived from the will’s language. Here, the will specifically referred to “the shares of capital stock that I have” in the named companies, indicating a desire to pass on those particular assets. The court noted the will gave Rose Small control over the disposition of these specific stock holdings. The court distinguished this from a general legacy, where the beneficiary receives a value that could be satisfied from any of the estate’s general assets. The court also pointed to the fact the stock was closely held, and not publicly traded, further supporting the intent to make a specific bequest.

Practical Implications

This case clarifies how bequests of specific, identifiable assets are treated under New York law for estate tax purposes. Specifically, it provides guidance on differentiating between specific and general legacies, impacting the calculation of executors’ commissions and the corresponding estate tax deductions. Legal practitioners must carefully analyze the testator’s intent, as expressed in the will, to determine whether a bequest is specific, especially when dealing with closely held stock or other unique assets. This ruling emphasizes that clear and unambiguous language is crucial to avoid disputes over the nature of bequests and their tax implications. Later cases may distinguish Werbelovsky based on differing will language or factual scenarios where the testator’s intent is less clear.

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