15 T.C. 188 (1950)

A constitutional question will not be considered by the Tax Court in the absence of pleadings properly raising such a question.

Summary

The Estate of Louis Solowey petitioned the Tax Court, contesting the Commissioner's inclusion of life insurance proceeds in the gross estate. The Commissioner argued that a portion of the insurance proceeds was includable because the decedent paid the premiums. The petitioner argued that the provisions the Commissioner relied upon were unconstitutional. However, the petitioner failed to raise the constitutional issue in its pleadings. The Tax Court held that it would not consider the constitutional argument because it was not properly pleaded.

Facts

Louis Solowey (the decedent) died on August 4, 1946. Prior to his death, he had taken out eight life insurance policies on his own life. He assigned these policies to his wife and daughters on May 4, 1944, December 20, 1945, and December 29, 1945. Before the assignments, the decedent owned all incidents of ownership in the policies. After the assignments, he retained no incidents of ownership.

The decedent paid all the premiums on the policies up to the time of the assignment, totaling $80,954.31. The assignees paid the premiums after the assignments, totaling $7,116.90. The assignees received the proceeds of the policies upon the decedent's death, totaling $115,929.48.

Procedural History

The Estate of Louis Solowey filed an estate tax return, excluding the life insurance proceeds. The Commissioner determined a deficiency, including a portion of the insurance proceeds in the gross estate. The Estate petitioned the Tax Court, contesting the deficiency. The Commissioner claimed an increased deficiency in an amended answer filed at the hearing.

Issue(s)

Whether the Tax Court can consider the constitutionality of a tax law when the issue was not raised in the petitioner's pleadings.

Holding

No, because the specific constitutional provision alleged to be violated must be set forth in the pleadings; a constitutional question will not be considered in the absence of proper pleadings.

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Court’s Reasoning

The Court relied on the principle that pleadings must frame the issues in a case. The court noted, “This Court has heretofore pointed out that the specific constitutional provision alleged to be violated must be set forth in the pleadings and that the constitutional question will not be considered in the absence of proper pleadings.” Because the petitioner’s pleadings made no reference to any constitutional question, the Tax Court refused to consider the constitutional argument presented in the petitioner’s brief. The court referenced previous cases supporting this position, including *Higgins v. Commissioner*, 3 T.C. 140 (1944); *Ernest M. Figley v. Commissioner*, B.T.A. Memo. Op. Dkt. 104513 (1941); *Cyrus S. Eaton v. Commissioner*, B.T.A. Memo. Op. Dkt. 84141 (1935).

Practical Implications

This case highlights the critical importance of proper pleading in tax litigation. Attorneys must explicitly raise and detail any constitutional challenges in their initial pleadings. Failure to do so will likely result in the court’s refusal to consider those arguments later in the proceedings. This ruling emphasizes the Tax Court’s adherence to procedural rules and its reluctance to address constitutional questions raised for the first time in briefs or at trial. It reinforces the idea that the pleadings define the scope of the litigation and put the opposing party on notice of the issues to be addressed. Later cases will likely cite this to enforce the need to properly plead constitutional issues.

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