T.C. Memo. 1951-364

Trust expenses incurred and paid after the death of the life beneficiary, but during the reasonable period required for winding up trust affairs and distribution, are deductible by the trust, not the remaindermen.

Summary

The petitioner, a remainderman of both an inter vivos and a testamentary trust, sought to deduct expenses paid by the trustee after the death of the life beneficiary. These expenses included trustee commissions, attorney's fees for services related to trust termination, and miscellaneous administration expenses. The Tax Court held that these expenses were properly deductible by the trusts, as they were incurred during the reasonable period required to wind up trust affairs, and were not deductible by the remainderman. The court further held that the remainderman could not utilize capital loss carryovers from losses sustained by the trust during the life beneficiary's lifetime, and was not entitled to a depreciation deduction on a former residence that was listed for sale but not actively rented.

Facts

Frederick M. Billings was the remainderman of two trusts created by his father, one inter vivos and one testamentary, with his mother as the life beneficiary. After his mother's death, the trustee paid commissions, attorney's fees, and miscellaneous expenses related to the distribution of the trust assets. Billings also claimed capital loss carry-overs from losses the trust sustained during his mother's life. Additionally, he sought a depreciation deduction for a house he previously occupied as a residence but had listed for sale after entering military service.

Procedural History

The Commissioner of Internal Revenue disallowed the deductions claimed by Billings. Billings then petitioned the Tax Court for a redetermination of the deficiencies.

Issue(s)

1. Whether the petitioner, as remainderman, is entitled to deduct trust expenses incurred and paid by the trustee after the death of the life beneficiary but before the final distribution of trust assets.
2. Whether the petitioner is entitled to utilize capital loss carry-overs resulting from net capital losses sustained by the trusts during the life beneficiary's lifetime.
3. Whether the petitioner is entitled to a deduction for depreciation on a residence that was listed for sale but not actively rented.

Holding

1. No, because the expenses were incurred by and paid on behalf of the trusts during the period required to wind up trust affairs, making the trusts the proper taxpayers to claim the deductions.
2. No, because the capital loss carry-over provisions were not intended to benefit a remainderman who did not sustain the losses, and because the trusts already used the carry-overs to offset their own gross income.
3. No, because listing a property for sale does not constitute converting it to an income-producing use, and the petitioner did not demonstrate an intent to abandon the property as a residence.

Court's Reasoning

The court reasoned that a trustee is allowed a reasonable time to distribute trust property after the death of the life beneficiary, and the corpus and income continue to belong to the trust during that period. Therefore, expenses incurred during this period are expenses of the trust, not the remaindermen. The court distinguished cases cited by the petitioner, noting that in those cases, the remaindermen were obligated to pay the expenses. Regarding the capital loss carry-overs, the court found no indication that Congress intended the carry-over provision to apply to a remainderman who did not sustain the losses. The court also rejected the petitioner's argument that he should be treated as standing in the place of the trustee for purposes of applying the carry-overs. Finally, the court held that listing a property for sale does not constitute converting it to an income-producing use, and the petitioner failed to demonstrate an intent to abandon the property as a residence, thus precluding a depreciation deduction. The court noted, "A taxpayer, who owns and occupies a residence as his own home, is not allowed a deduction for loss on the property or deductions for depreciation on the property, other than for periods during which it is actually rented, unless he abandons the property as his home and converts it to an income-producing use. This conversion is not accomplished by listing the property for sale."

Practical Implications

This case clarifies that expenses incurred during the winding-up period of a trust after the death of the life beneficiary are generally deductible by the trust itself, not the remaindermen. Attorneys should advise trustees to properly document all expenses incurred during this period to support the trust's deductions. Remaindermen cannot automatically utilize a trust's capital loss carry-overs. Taxpayers attempting to convert a residence into an income-producing property need to do more than simply list it for sale; active rental efforts are required. Later cases may distinguish this ruling based on specific trust provisions or factual circumstances demonstrating that the remaindermen effectively controlled the trust during the winding-up period.

