18 T.C. 499 (1952)

When an executor elects the optional valuation date for estate tax purposes, the value of survivorship annuities should be adjusted to reflect the death of the surviving annuitant prior to the optional valuation date, excluding any loss in value due to that death from the gross estate calculation.

Summary

John A. Hance died owning several survivorship annuity contracts that would pay his widow for life after his death. His executor elected to value the estate one year after death under Section 811(j) of the Internal Revenue Code. Hance's widow died before the optional valuation date. The Tax Court held that the annuities should be valued at the date of Hance's death but adjusted to account for the widow's death before the optional valuation date. The court reasoned that the actual intervening death of the surviving annuitant before the optional valuation date is a relevant factor that must be considered, even though actuarial tables are used to value annuities at the date of death.

Facts

John A. Hance died on February 22, 1947, survived by his widow. He owned seven single-premium annuity contracts that would pay his widow a specified annuity for her life after his death. The executor elected to value the estate as of the optional valuation date, one year after Hance's death, as permitted by Section 811(j) of the Internal Revenue Code. Hance's widow died on May 15, 1947, before the optional valuation date.

Procedural History

The Commissioner of Internal Revenue determined a deficiency in estate tax. The executor contested the Commissioner's valuation of the annuity contracts. The case was brought before the Tax Court.

Issue(s)

Whether, when an executor elects to value a gross estate as of the optional valuation date under Section 811(j) of the Internal Revenue Code, the value of survivorship annuities should be adjusted to reflect the death of the surviving annuitant prior to the optional valuation date?

Holding

Yes, because Section 811(j)(2) requires an adjustment for any difference in value as of the later date (the optional valuation date) not due to mere lapse of time, and the death of the surviving annuitant is an event other than a mere lapse of time.

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Court’s Reasoning

The court focused on the interpretation of Section 811(j) of the Internal Revenue Code, which governs optional valuation. The court noted that Section 811(j)(2) states that any interest or estate affected by the mere lapse of time shall be included at its value as of the time of death, with adjustment for any difference in its value as of the later date not due to mere lapse of time. The court reasoned that the Commissioner’s insistence that the widow’s death did not affect the value of the annuities on the optional date was incorrect. The court distinguished the case from *Ithaca Trust Co. v. United States*, 279 U.S. 151 (1929), where the valuation was confined to facts at the decedent’s death. Here, the court emphasized, the widow’s death before the optional valuation date was an actuality, not merely a possibility. The court stated,

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