Estate of Herbert Jermain Slocum, The South Carolina National Bank of Charleston and George L. Buist, Executors, Petitioner, v. Commissioner of Internal Revenue, Respondent, 21 T.C. 465 (1954)

Property subject to a power of appointment, exercised by will, is not considered 'property subject to claims' for estate tax deduction purposes under South Carolina law, even if it would be under a general rule of equity.

Summary

The Estate of Herbert J. Slocum contested a federal estate tax deficiency determined by the Commissioner of Internal Revenue. The key issue was whether property over which Slocum exercised a general power of appointment by will was "property subject to claims" within the meaning of Section 812(b) of the Internal Revenue Code, thereby entitling the estate to deduct funeral, administration expenses, and debts from the value of this property. The Tax Court, applying South Carolina law, held that the appointed property was not subject to claims because South Carolina law, as interpreted by the *Humphrey v. Campbell* case, determined that property subject to a power of appointment exercised by will alone did not bear the burden of payment of claims against the estate, as would a property owned by the decedent. The court's decision affirmed the Commissioner's determination of a deficiency.

Facts

Herbert J. Slocum (decedent) died a resident of Charleston, South Carolina, on February 1, 1948. His gross estate included property subject to a general power of appointment, which he exercised by his will. The power of appointment was granted to Slocum in the will of his father, Herbert J. Slocum, who died in 1928. The father's will created a trust, the income of which was paid to the father's wife, Mary R. Slocum, for life, with the remainder to his sons, Herbert Jermain Slocum Jr., and Myles Standish Slocum. The will granted either son the power to appoint by will the share of the trust fund. Slocum, by his will, exercised the power of appointment over his share of the trust, appointing it to his wife. A claim against the estate, arising from a debt owed to Slocum's son, John J. Slocum, was partially satisfied by funds voluntarily turned over by Slocum's widow, Anita, to the executors of the estate.

Procedural History

The executors of Slocum's estate filed a federal estate tax return. The Commissioner of Internal Revenue determined a deficiency in the estate tax, disallowing certain deductions related to the property subject to the power of appointment. The estate contested the deficiency in the United States Tax Court.

Issue(s)

1. Whether property subject to a power of appointment, exercised by the decedent's will, is "property subject to claims" under Section 812(b) of the Internal Revenue

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Code and South Carolina law?

Holding

1. No, because the court determined that under South Carolina law, property subject to a power of appointment exercised by will alone is not “property subject to claims.”

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