Estate of Jean S. Alexander, Raymond T. Zillmer, Administrator c. t. a., Petitioner, v. Commissioner of Internal Revenue, Respondent. First Wisconsin Trust Company, Transferee, Petitioner, v. Commissioner of Internal Revenue, Respondent. Elsie D. Kipp, Transferee, Petitioner, v. Commissioner of Internal Revenue, Respondent, 25 T.C. 600 (1955)

When a charitable deduction is claimed for a remainder interest in a trust, and there is a possibility that the trust's corpus could be invaded for non-charitable purposes, the deduction must be calculated using an approach that accounts for all potential events that might diminish the value of the charitable remainder.

Summary

The United States Tax Court addressed the calculation of a charitable deduction in an estate tax case. The primary dispute centered on determining the present value of a remainder interest left to a charitable organization. The court considered whether the trust corpus could be invaded to provide for beneficiaries, which would impact the charitable deduction. The court held that the deduction calculation must consider the possibility of invasion and any conditions, such as remarriage, that could affect the value of the charitable remainder. Consequently, the court mandated the use of the "Remarriage-Annuity" method to calculate the deduction, as it was the only method to account for all contingencies in this specific case. This method requires reducing the residuary estate by the present value of the annuities and the amount to be paid on remarriage before calculating the charitable deduction.

Facts

Clarence F. Kipp's will established a trust, with the Milwaukee Foundation as a remainder beneficiary. The will provided income to his wife, Elsie D. Kipp, and other beneficiaries. The will also provided for possible invasion of the trust corpus to ensure Elsie D. Kipp received $600 per month. The estate sought to deduct the value of the remainder interest passing to the Foundation. The IRS challenged the amount of the deduction, arguing the possibility of invading the trust corpus rendered the remainder's value uncertain. The court also considered the widow's allowance paid to Elsie D. Kipp as a deduction, as well as her election to take under the will rather than taking her statutory share.

Procedural History

The Commissioner of Internal Revenue determined deficiencies in the estate tax. The estate, and the transferees of the estate, challenged the Commissioner's determinations in the U.S. Tax Court. The primary dispute was the valuation of the charitable deduction. The Tax Court addressed the issues of the widow's allowance as an expense and whether the value of the charitable remainder could be accurately calculated given the contingencies in the will.

© 2025 SCOTUSreports.com. All rights reserved.

Issue(s)

1. Whether the $23,000 paid to the widow as a support allowance is an allowable deduction under I.R.C. §812(b)(5)?

2. What amount is allowable as a charitable deduction under I.R.C. §812(d), given the possibility of invasion of the trust corpus?

3. Is Jean S. Alexander, the deceased executrix, personally liable for any estate tax deficiency?

Holding

1. Yes, because the payments were authorized by the Wisconsin court under which the estate was being administered.

2. The court determined the charitable deduction must be computed using an indirect method that considers all events by which the trust may terminate and that may affect the value of the charitable remainder interest.

3. Decision deferred, given admission of liability by transferees.

Court's Reasoning

The court first considered the deductibility of the widow's allowance under I.R.C. §812(b)(5). It found that because the Wisconsin probate court approved the payments, the payments were deductible. The court emphasized that it must respect state court decisions, absent evidence the state court did not act according to state law. The court then addressed the charitable deduction under I.R.C. §812(d). The court found that because the trust corpus could be invaded, the calculation of the charitable deduction had to consider this. "If as of the date of decedent's death the transfer to the charity is subject to diminution through the happening of some event, 'no deduction is allowable unless the possibility that the charity will not take is so remote as to be negligible.'" Given the possibility of the corpus being invaded, and the possibility of the widow remarrying, the court determined that the deduction should be calculated using the "Remarriage-Annuity" method. The method considered the value of the remainder, the possibility of invasion, and the widow's remarriage. The value of the residuary estate must be reduced by $25,000 payable to the widow upon her remarriage.

Practical Implications

This case provides a roadmap for calculating charitable deductions when there is any uncertainty surrounding the value of the charitable remainder. It emphasizes that the precise method of calculating the deduction depends on the specific facts of the case. This means:

© 2025 SCOTUSreports.com. All rights reserved.

- Attorneys must carefully analyze the terms of the trust and will, as well as any potential for the trust corpus to be invaded.
- The value of the charitable remainder must be calculated considering any contingencies that could diminish the value of the interest.
- A “Remarriage-Annuity” method or another indirect method might be appropriate when the possibility of invasion or a similar contingency exists.
- In cases where there’s a possibility of an uncertain value of the charitable remainder, the court will require a highly reliable appraisal to determine the amount the charity will receive.

Later cases will likely cite this case for the proposition that the calculation of a charitable deduction must always consider the specific terms of the will and any potential for diminishing the value of the charitable remainder.

© 2025 SCOTUSreports.com. All rights reserved.