25 T.C. 60 (1955)

Under the terminable interest rule, a marital deduction is disallowed if the surviving spouse's interest in property could terminate upon the occurrence of an event or contingency, such as death before distribution, unless the event is limited to a period not exceeding six months after the decedent's death.

Summary

The Estate of Allen Clyde Street challenged the Commissioner's denial of a marital deduction. The decedent's will left his entire estate to his wife, but included a provision that if she predeceased distribution, the estate would go to his niece. The court addressed whether this created a terminable interest under the Internal Revenue Code, thus disqualifying the estate from the marital deduction. The court found that the widow's interest was terminable because her right to receive the property was contingent on her surviving until the distribution of the estate, which could occur more than six months after the decedent's death. Therefore, the court upheld the Commissioner's decision, denying the marital deduction.

Facts

Allen Clyde Street's will appointed his wife, Lottie Jane Street, as executrix. The will devised all his property to his wife. However, a subsequent clause stipulated that if his wife predeceased him or distribution of the estate, the property would pass to his niece. Lottie Jane Street survived her husband and the distribution of the estate, which occurred within the probate process. The estate claimed a marital deduction on its estate tax return based on the devise to the wife. The Commissioner of Internal Revenue disallowed the marital deduction, arguing that the interest passing to the surviving spouse was a terminable interest.

Procedural History

The executrix of the Estate, Lottie Jane Street, filed an estate tax return claiming a marital deduction, which was subsequently denied by the Commissioner. The Estate contested the denial. The case was heard by the Tax Court.

Issue(s)

1. Whether the interest in property passing to the surviving spouse was a terminable interest under Section 812(e)(1)(B) of the 1939 Internal Revenue Code?

2. Whether the fact that distribution occurred within six months of the decedent's death qualified the interest for the marital deduction under Section 812(e)(1)(D)?

Holding

1. Yes, because the widow's interest was contingent on her survival until

distribution, which could extend beyond six months from the date of death, making it a terminable interest.

2. No, because the exception under Section 812(e)(1)(D) did not apply since the condition of survival until distribution was not limited to six months.

Court’s Reasoning

The court relied heavily on Section 812(e) of the 1939 Internal Revenue Code, which addresses the marital deduction. The court pointed out that the will provided for a gift over to the niece if the wife predeceased distribution. The court referenced *Kasper v. Kellar,* which established that the contingency of the wife’s death before distribution created a terminable interest, even though distribution actually occurred within six months. The court reasoned that the critical factor was whether there was certainty, at the time of the decedent’s death, that the wife’s interest would become absolute within six months. The court also rejected the estate’s argument that the decree of distribution should be considered an interpretation of the will, emphasizing it merely carried out the will’s terms.

Practical Implications

This case underscores the importance of carefully drafting wills to ensure eligibility for the marital deduction. Lawyers must be precise when drafting clauses in wills that could create a contingency impacting the surviving spouse’s interest. Any condition that could terminate the surviving spouse’s interest, such as death before distribution, must be limited to six months from the date of the decedent’s death to qualify for the marital deduction. This case is frequently cited in tax law to illustrate the terminable interest rule. It affects how estate planners draft wills and other estate planning documents, to avoid inadvertently creating terminable interests that would deny the marital deduction and increase estate taxes. The principles from this case are still applicable today.