Estate of G.A. Buder, Deceased, 26 T.C. 1019 (1956)

The gift tax annual exclusion under the Internal Revenue Code applies to each individual who benefits from a gift, even if the recipients hold property as tenants by the entirety, not to the tenancy as a single entity.

Summary

The case concerns whether a donor making a gift of property to a husband and wife as tenants by the entirety is entitled to one or two annual gift tax exclusions. The court held that the donor was only entitled to one exclusion because the donor had already used up the allowable annual exclusions by making separate gifts to the couple individually during the same year. The court reasoned that because the husband and wife each receive a benefit from the gift, the annual exclusion applied to each of them individually, not the estate as a whole, under the "common understanding" of a gift.

Facts

G.A. Buder made gifts to his son, G.A. Buder Jr., and his son's wife, Kathryn M. Buder, in 1951. He also gave the couple bonds as tenants by the entirety. The donor claimed annual gift tax exclusions for these gifts. The Commissioner of Internal Revenue disallowed the exclusion for the gift of bonds, arguing only one exclusion was allowable because the gift was to an estate by the entirety. Buder's estate contested this disallowance, claiming the transfer created an estate of entirety, which, under Missouri law, should be considered a single entity, thus entitling them to one exclusion. The Tax Court addressed the gift tax implications of these transfers.

Procedural History

The Commissioner of Internal Revenue determined a gift tax deficiency. The Estate of G.A. Buder, Deceased, contested the determination in the United States Tax Court. The case was submitted under Rule 30, based on a full stipulation of facts and written briefs, thus streamlining the process and avoiding a trial.

Issue(s)

1. Whether a gift of bonds to a husband and wife as tenants by the entirety should be treated as a gift to a single entity for purposes of the gift tax annual exclusion.

2. Whether the donor is entitled to one or two annual exclusions for the gifts made to the couple, considering the earlier gifts made individually.

Holding

1. No, because the court applied the "common understanding" of a gift as to the

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individuals receiving the benefit, not the estate as a single entity.

2. No, because the donor exhausted the allowable annual exclusions by making separate gifts to each donee earlier in the year, therefore, no further exclusion was allowed.

Court's Reasoning

The court recognized that under Missouri law, a conveyance to a husband and wife creates an estate by the entirety. However, the court emphasized that the gift tax statute's language should be interpreted "in their natural sense" and "in common understanding and in the common use of language a gift is made to him upon whom the donor bestows the benefit of his donation." The court found that the donor bestows the benefit of the gift upon the husband and wife as individuals. The court looked to the Supreme Court's decision in *Helvering v. Hutchings*, which held that the annual exclusion applied to each beneficiary of a trust. Because the donor had already given individual gifts and claimed the exclusions for them, no further exclusion could be taken for the gift to them in the estate by entirety.

Practical Implications

This case clarifies how to treat gifts to tenants by the entirety under the gift tax laws. It instructs tax professionals to consider each individual benefiting from the gift when determining the availability of the annual exclusion, rather than treating the tenancy as a single unit. This has practical implications for estate planning, where structuring gifts to maximize the number of annual exclusions is a common strategy. The case reaffirms that the substance of the gift—who receives the benefit—controls, not the form of ownership. This case has been cited in subsequent cases that have examined whether the donor is entitled to multiple gift tax exclusions.

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