28 T.C. 1193 (1957)

A marital deduction for estate tax purposes is not allowed if the interest passing to the surviving spouse is a terminable interest, meaning it may end and pass to another person.

Summary

In *Estate of Howell v. Commissioner*, the U.S. Tax Court addressed whether a bequest to a surviving spouse qualified for the marital deduction under the Internal Revenue Code. The decedent left his estate to his wife "to be used as she pleases, for her own support, the residue after her life, to go to" their son or grandson. The court held that this bequest created a terminable interest because the wife's interest could terminate, and the remaining property would pass to another person. Therefore, the estate was not entitled to the marital deduction. The court emphasized that the possibility of the interest terminating, not its certainty, was the key factor in determining the deductibility.

Facts

Wallace S. Howell died testate in Ohio, survived by his wife and son. His will bequeathed all his possessions to his wife "to be used as she pleases, for her own support, the residue after her life, to go to" their son or, if the son predeceased her, to the son's son. The estate claimed a marital deduction on the estate tax return. The Commissioner of Internal Revenue disallowed the full marital deduction, arguing that the interest passing to the surviving spouse was a terminable interest.

Procedural History

The Commissioner determined a deficiency in estate tax and reduced the claimed marital deduction. The estate petitioned the United States Tax Court to challenge the Commissioner's determination.

Issue(s)

1. Whether the interest passing to the surviving spouse was a terminable interest within the meaning of Section 812(e)(1)(B) of the Internal Revenue Code of 1939.

Holding

1. Yes, because the will created a life estate with a remainder interest in the son (or grandson), and the surviving spouse's interest was therefore terminable.

Court's Reasoning

The court applied Ohio law to interpret the will, finding that the language created a life estate for the wife with a remainder interest in the son (or grandson). Ohio courts had consistently held that similar language created life estates with remainders. The court cited *Tax Commission v. Oswald* and *Johnson v. Johnson*, as well as other precedents, to support its interpretation. The court stated that the surviving spouse's interest could terminate, and the property would then pass to another person. The court further emphasized that it was the possibility of termination, and the possibility that the property would pass to someone else, that triggered the terminable interest rule. The court quoted, "The test is not what the estate to the wife was called. It is enough if it "may" be terminated so that the property would go to another."

Practical Implications

This case is crucial for estate planning and tax law. It demonstrates that when drafting wills, it is important to precisely define the interests of beneficiaries. If a will grants a surviving spouse a life estate, especially with a power to consume the principal, but also includes a remainder interest to another person, the marital deduction may be disallowed. This can significantly increase the estate tax liability. Legal practitioners should carefully examine the language of wills to identify potential terminable interests. Tax advisors must be aware of the specific requirements for qualifying for the marital deduction and advise clients accordingly. This case highlights that the possibility of termination controls. Later cases will likely cite this as precedent where a will's language creates a life estate for a spouse and a remainder to other parties, preventing a full marital deduction.

