***Estate of Pulvermann v. Commissioner*, 24 T.C. 238 (1955)**

For estate tax purposes, the situs of bonds issued by a domestic corporation is where they are physically located, not where a claim for their replacement might be pursued after destruction.

Summary

The case addresses whether certain bonds of a New Jersey corporation held by a nonresident alien decedent were subject to U.S. estate tax. The bonds were destroyed in London during World War II. The Tax Court held that the bonds were not situated in the United States at the time of the decedent's death, and therefore, were not includible in his gross estate for estate tax purposes. The court emphasized the physical location of the bonds, rejecting the government's argument that a claim for the reissuance of the destroyed bonds had a U.S. situs. The court further determined that the bonds were not in the United States at the time of a purported gift of the bonds to the decedent's son.

Facts

Eduard F. Pulvermann, a nonresident alien, owned bearer bonds of a New Jersey corporation. In 1933, he attempted to transfer these bonds to his son, Curt Pulvermann, but retained the right to dispose of them. The bonds were later sent to the corporation's New York office in 1933 for a debt readjustment plan. In 1937, Eduard Pulvermann took possession of the bonds and deposited them in London. The bonds were destroyed in a 1941 air raid. After the war, Curt Pulvermann filed a claim with the Alien Property Custodian for the proceeds from the sale of the bonds, which was granted. The Commissioner of Internal Revenue assessed an estate tax deficiency, arguing the bonds were situated in the United States at the time of death or when the gift was made.

Procedural History

The Commissioner issued a notice of deficiency to Curt Pulvermann as a beneficiary and transferee of the decedent's estate. The deficiency was based on the inclusion of the bonds in the estate. The case was brought before the Tax Court to determine the estate tax liability.

Issue(s)

1. Whether the bonds were situated in the United States at the time of the decedent's death for estate tax purposes.
2. Whether the bonds were situated in the United States at the time of the gift of the bonds to Curt Pulvermann.

Holding

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1. No, because the bonds were not physically present in the United States at the time of death.
2. No, because there was no evidence that the bonds were in the United States at the time of the gift.

Court’s Reasoning

The court relied on the Internal Revenue Code of 1939, specifically sections 861(a) and 862(b), which address the inclusion of property in a nonresident alien’s gross estate for estate tax purposes. Section 861(a) states that the gross estate includes that part which is “situated in the United States” at the time of death. The court cited *Burnet v. Brooks*, 288 U.S. 378 (1933), to support the principle that the situs of property is determined by its physical location. The court pointed out that the Treasury regulations also stipulated that bonds are only considered within the United States if physically situated there. Since the bonds were in London at the time of the decedent’s death, they were not includible. The court also rejected the Commissioner’s argument that a claim for reissuance had a situs in the United States, holding that this was merely an equitable remedy and not a debt or claim for money.

The court also found that the bonds were not in the United States at the time of the gift to the son, because all evidence showed that at the time of the transfer, the bonds were not in the United States. As a result, even if the gift was revocable, the requirement to be situated in the United States was not met.

Practical Implications

This case provides a clear rule for determining the situs of bonds for estate tax purposes. It emphasizes the importance of the physical location of the bond certificates at the time of death. This ruling is essential when advising clients with foreign assets. The case underscores the need to consider the physical location of tangible property to assess estate tax liabilities. The case also highlights that even if the bonds are destroyed, the right to replacement does not automatically give the bonds a situs within the United States, and the bonds would not be included in the estate.

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