Estate of Cunha v. Commissioner, 30 T.C. 932 (1958)

A family allowance paid to a surviving spouse under state law may be considered a terminable interest, thus not qualifying for the marital deduction, if it is subject to termination upon the spouse's death or remarriage.

Summary

The case concerns whether a family allowance paid to a widow from an estate qualifies for the marital deduction under the Internal Revenue Code. The court determined that the family allowance, which was subject to termination upon the widow's death or remarriage under California law, constituted a terminable interest. Therefore, the court disallowed the marital deduction for the portion of the estate allocated to the family allowance. This decision underscores the importance of state law in defining the nature of interests passing to a surviving spouse and its impact on federal estate tax calculations.

Facts

Edward A. Cunha died in California, survived by his widow. The California probate court granted the widow a family allowance. Under the terms of the will, the residue of the estate was divided between the widow and the son. The estate's executor claimed a marital deduction on the federal estate tax return for the family allowance paid to the widow. The Commissioner of Internal Revenue disallowed a portion of the deduction, arguing the family allowance was a terminable interest. The California Probate Code provided for a family allowance for the widow's maintenance during estate settlement, which could be modified and terminated upon her death or remarriage.

Procedural History

The Commissioner of Internal Revenue determined a deficiency in the estate tax. The estate contested the deficiency. The case was heard by the Tax Court.

Issue(s)

1. Whether the family allowance paid to the widow qualifies for the marital deduction under Section 812(e) of the Internal Revenue Code of 1939.

Holding

1. No, because the family allowance is a terminable interest under California law, thus not eligible for the marital deduction.

Court's Reasoning

The court examined the legislative history of the relevant sections of the Internal

© 2025 SCOTUSreports.com. All rights reserved.

Revenue Code and the California Probate Code regarding family allowances. The court noted that prior to the Revenue Act of 1950, family allowances were deductible as expenses of the estate. The 1950 Act eliminated this deduction and allowed family allowances to potentially qualify for the marital deduction, subject to the "terminable interest" rule. The court cited California law which established that the widow's right to an allowance would terminate upon her death or remarriage. Because the widow's interest was terminable, it failed to meet the requirements for the marital deduction, as the allowance would cease upon the occurrence of an event (death or remarriage). The court rejected the argument that because the allowance had been fully paid and the estate settled, it was no longer terminable. Instead, the court examined the interest at the time the probate court granted the allowance, at which point the interest was subject to termination.

Practical Implications

This case underscores the importance of considering state law when determining whether an interest qualifies for the marital deduction. Estate planners must carefully analyze the nature of family allowances and other property interests passing to surviving spouses under the applicable state laws to assess the impact on federal estate tax liabilities. If an interest is terminable, the marital deduction will be disallowed. The case directs practitioners to look at the nature of the interest at the time it is created, not with hindsight. This requires considering the conditions that can terminate an interest, such as death or remarriage, and planning accordingly. This case continues to be cited as a point of reference regarding the application of the terminable interest rule to family allowances.

© 2025 SCOTUSreports.com. All rights reserved.