***Estate of George M. Moffett v. Commissioner*, 27 T.C. 545 (1957)**

A charitable deduction for a remainder interest in a trust is disallowed if the possibility that the charity will not receive the remainder is not so remote as to be negligible.

Summary

The Estate of George M. Moffett sought a charitable deduction for the value of a remainder interest in a trust that would go to the Whitehall Foundation. The widow, Odette, received income and could invade the corpus of the trust. The Tax Court addressed whether the estate could deduct the remainder interest, which was contingent on Odette's death before exhausting the trust principal. The court held that the deduction was not allowable because the possibility that the charity would not receive the remainder was not so remote as to be negligible, considering the widow's age, life expectancy, and the invasion clause. The court emphasized that the contingency of Odette's living long enough to consume the corpus meant the charity's receipt of the remainder was not sufficiently certain to warrant a deduction.

Facts

George M. Moffett died in 1951, leaving a will that established two trusts. In the primary trust, Odette, his widow, was to receive $50,000 per year from the principal. The Whitehall Foundation was entitled to the remaining trust corpus if Odette died without consuming the principal. The will also gave the Whitehall Foundation the trust's net income during Odette's life. A second trust provided annual payments to Moffett's brother and sister, with the remainder also going to Whitehall Foundation. The estate sought a charitable deduction under section 812(d) of the Internal Revenue Code of 1939 for the value of the remainder interest. The IRS disallowed the deduction, arguing the charitable remainder was contingent and its value uncertain.

Procedural History

The Commissioner determined a deficiency in the estate tax and denied the claimed deduction for the remainder interest of the Whitehall Foundation in the trust corpus. The estate challenged this disallowance in the Tax Court. The Tax Court considered the issue based on stipulated facts and legal arguments.

Issue(s)

1. Whether the petitioners are entitled to a deduction under section 812 (d) of the Internal Revenue Code of 1939 with respect to the value of a remainder interest in the corpus of a testamentary trust established by decedent, said remainder interest being for the benefit of a charitable corporation.
2. If the answer to the first issue is in the affirmative, the value of that interest.

Holding

1. No, because the possibility that the charity would not receive the remainder was not so remote as to be negligible.
2. The court did not decide this because the first issue was answered in the negative.

Court's Reasoning

The court examined whether the charitable remainder was sufficiently assured to warrant a deduction. It referenced prior cases, including *Humes v. United States*, where the court stated, "Did Congress in providing for the determination of the net estate taxable, intend that a deduction should be made for a contingency, the actual value of which cannot be determined from any known data?" The court noted that the remainder interest was contingent on Odette's death prior to exhausting the trust principal. The court found the right of invasion by Odette was accurately measured to $50,000 yearly. The court cited *Commissioner v. Sternberger's Estate*, and emphasized that the possibility of the charity's not taking must be "so remote as to be negligible" (referencing Regulations 105, sec. 81.46). The court calculated the chances of Odette's living at least 30 years to consume the corpus were not so remote as to be negligible, using mortality tables. The court concluded, "the possibility that the charity will not take is not so remote as to be negligible" and, therefore, denied the deduction.

Practical Implications

This case is significant because it clarifies the standards for charitable deductions of remainder interests in estate tax planning. It emphasizes that the possibility of a charity not receiving a remainder interest must be extremely remote for a deduction to be allowed. Attorneys must carefully analyze the terms of trusts and wills, particularly the presence of life estates, invasion clauses, and contingencies that could prevent the charity from taking the remainder. The Moffett case illustrates the importance of actuarial calculations and mortality tables in determining the probability that a charity will benefit. Legal practitioners should advise clients that if a significant chance exists that a charity will not receive the remainder, a charitable deduction may be denied, potentially leading to higher estate tax liability. The court's analysis of the likelihood of the widow outliving the trust corpus provides guidance in similar cases involving life estates and charitable remainders. This case is often cited in arguments concerning the valuation of contingent charitable interests. The court's reliance on the regulations adds weight to the IRS's position in similar tax disputes.

