34 T.C. 351 (1960)

When a will, governed by foreign law, creates successive interests in property, the determination of whether property is includible in a nonresident alien's estate for U.S. estate tax purposes depends on the nature of the interests created under the foreign law, and the property may be excluded if the decedent held only a life estate and did not own the underlying assets at the time of death.

Summary

The Estate of Hedwig Zietz challenged the Commissioner of Internal Revenue's inclusion of securities held in New York banks in her gross estate for U.S. estate tax purposes. Zietz, a nonresident alien, had inherited property under her deceased husband's will, which was governed by German law. The will established successive heirs, with Zietz as the first heir and her sons as the reversionary heirs. The court examined whether, under German law, Zietz held a life estate with the power to invade the corpus, or if she owned the securities outright. The court determined that, under German law, she had a life estate, and thus the securities were not includible in her estate because they belonged to her son, the final heir, by operation of law from his father's will.

Facts

Hugo Zietz, a German citizen, died testate in 1927, leaving his estate to his wife, Hedwig, and their sons. His will, governed by German law, appointed Hedwig as the provisional heir and his sons as reversionary heirs. Hugo had deposited funds from the sale of his business in joint bank accounts with his wife. After Hugo's death, Hedwig and her sons moved to Switzerland, where Hedwig resided until her death in 1945. At her death, securities were held in her name in custody accounts in New York City. The Commissioner included the value of these securities in Hedwig's estate for U.S. estate tax purposes, arguing she owned the property. The estate contested this, claiming the securities were part of Hugo's estate, not Hedwig's, and therefore passed directly to her son upon her death.

Procedural History

The Commissioner determined a deficiency in estate tax, leading to a petition to the United States Tax Court. The Tax Court heard the case and considered extensive evidence of German law, the Zietz family's financial history, and the nature of Hugo's will. The court needed to determine the nature of the estate and the powers of Hedwig under the German will and German law in determining whether she had a life estate or was the full owner of the securities.

Issue(s)

1. Whether, under Hugo Zietz's will and German law, the New York securities were the property of Hedwig at her death, or part of Hugo's estate, passing to Willy Zietz

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as reversionary heir.

2. Whether Hedwig owned any legal interest in the bank accounts created by Hugo during his life.

3. Whether the New York securities were purchased by Hedwig with her own funds.

Holding

1. No, because under German law, Hedwig held only a life estate, with her son, Willy, the remainder beneficiary.

2. No, because under German law, Hugo retained ownership of the joint bank accounts, even though Hedwig could withdraw funds from the accounts.

3. No, the securities were derived from Hugo's estate.

Court's Reasoning

The court focused on the application of German law to interpret Hugo's will. The court accepted expert testimony, along with the ruling of a Zurich tax tribunal, and found that Hedwig's interest in Hugo's estate was similar to a life estate, with a power to invade the corpus for her and her sons' support, and that the sons were the remaindermen. The court cited the German Civil Code and case law to support the distinction between the provisional heir (Hedwig) and the final heir (Willy). It noted Hedwig's inability to dispose of the estate assets in a way that would defeat the rights of the final heirs. The court also examined the history of how Hugo had set up bank accounts, concluding that they were established for convenience with no intent to make a gift to Hedwig of the underlying assets.

Practical Implications

This case is significant for attorneys dealing with estates involving nonresident aliens and wills governed by foreign law. The court's decision emphasizes the importance of: (1) Thoroughly understanding and presenting evidence of the applicable foreign law. (2) Properly interpreting the testator's intent under the foreign law, especially when dealing with concepts similar to life estates or remainders. (3) Determining the actual ownership of assets. The case demonstrates that the form of ownership (e.g., joint bank accounts) does not always determine the substance of ownership for tax purposes and the importance of looking at the law of the jurisdiction to analyze the intent of the testator and establish the estate. This ruling emphasizes the importance of using expert witnesses and official rulings from foreign jurisdictions to establish the nature of property interests.

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