Estate of Mae Elliott, Mrs. J. E. Crabtree, a. k. a. Mrs. Mary Kathryn Crabtree, Executrix, et al. , Petitioners v. Commissioner of Internal Revenue, Respondent, 57 T. C. 152 (1971)

U. S. Savings Bonds registered in co-ownership form are includable in the decedent's gross estate unless surrendered and reissued in accordance with Treasury regulations.

Summary

Mae Elliott purchased U. S. Savings Bonds (Series E) and registered them in co-ownership form with her daughter and grandchildren. She gave the safe-deposit box keys containing the bonds to her daughter but did not surrender or reissue the bonds. The Tax Court held that the bonds' value must be included in Elliott's gross estate under Section 2040 of the Internal Revenue Code, as the Treasury regulations prevent inter vivos gifts of co-owned bonds without surrender and reissue. This decision also extended the statute of limitations for estate tax assessments due to the significant omission from the reported gross estate.

Facts

Mae Elliott bought Series E U. S. Savings Bonds with her own funds from November 1949 to October 1959, registering them in co-ownership form with her daughter, Kathryn, and her grandchildren, Elliott and Elaine. The bonds were stored in a safe-deposit box rented solely in Elliott's name. On August 23, 1956, Elliott gave the safe-deposit box keys to Kathryn and noted in her diary that the bonds belonged to Kathryn, Elliott, and Elaine. Elliott never entered the box after this date, but she retained the legal right to access it until her death on July 7, 1962. The bonds, valued at $95,105. 60, were not included in Elliott's estate tax return, which reported a gross estate of $156,685. 73.

Procedural History

The Commissioner of Internal Revenue determined a Federal estate tax deficiency of $79,266. 31 against Elliott's estate. The estate, along with Kathryn, Elliott, and Elaine as transferees, filed petitions with the U. S. Tax Court to contest this deficiency. The Tax Court consolidated these cases and ruled in favor of the Commissioner.

Issue(s)

1. Whether the value of U. S. Savings Bonds registered in co-ownership form is includable in the decedent's gross estate under Section 2040 of the Internal Revenue Code.
2. Whether the decedent made valid inter vivos gifts of the bonds under Texas law.
3. Whether the statute of limitations bars the assessment of the estate tax deficiency.

Holding

1. Yes, because the Treasury regulations require surrender and reissue of the bonds for a valid inter vivos gift, which did not occur, the bonds' value is includable in the decedent's gross estate.
2. No, because under Texas law, Elliott did not divest herself of all dominion and control over the bonds, failing to meet the requirements for a valid inter vivos gift.
3. No, because the omission of the bonds' value, exceeding 25% of the reported gross estate, extended the statute of limitations for assessment to six years, which had not expired.

Court's Reasoning

The court applied Treasury regulations, specifically 31 C. F. R. 315, which state that U. S. Savings Bonds are non-transferable and payable only to registered owners. The court rejected the argument that a valid gift could be made without surrendering and reissuing the bonds, emphasizing the importance of the Federal contract governing bond ownership. The court cited Estate of Curry v. United States as supporting this view, arguing for uniformity and predictability in bond ownership rules. The court also found that under Texas law, Elliott's actions did not constitute a valid inter vivos gift due to lack of unconditional delivery and retention of access to the bonds. The court's decision was further supported by the significant omission of the bonds' value from the estate tax return, justifying the extension of the statute of limitations.

Practical Implications

This decision clarifies that U. S. Savings Bonds registered in co-ownership form must be surrendered and reissued to effectuate an inter vivos gift, impacting estate planning strategies involving such bonds. Attorneys should advise clients to comply with Treasury regulations to avoid inclusion of bond values in the decedent's estate. The ruling also serves as a reminder of the importance of accurately reporting assets in estate tax returns to avoid extended statute of limitations for assessments. Subsequent cases have followed this precedent, reinforcing the requirement for formal surrender and reissue of co-owned bonds for gift purposes.