Estate of Judith C. Dinell, Deceased, First National City Bank, Judy Nan Hacohen and Tom Dinell, Executors, Petitioner v. Commissioner of Internal Revenue, Respondent, 58 T. C. 73 (1972)

A transfer of property is deemed made in contemplation of death if the dominant motive is to substitute for a testamentary disposition, even if the transferor is in good health.

Summary

In Estate of Dinell v. Commissioner, the Tax Court addressed whether the transfer of a reversionary interest in a trust to the decedent's children was made in contemplation of death, thus includable in her gross estate for tax purposes. Judith C. Dinell created a trust in 1959, with income to her children and the principal reverting to her estate upon her death or after 11 years. In 1964, she transferred this reversionary interest to her children and amended her will to remove specific bequests to them. Despite being in good health, the court found the transfer was motivated by a desire to avoid estate taxes, thus made in contemplation of death under Section 2035 of the Internal Revenue Code. This decision underscores the importance of motive in determining estate tax liability for transfers.

Facts

In 1959, Judith C. Dinell established an irrevocable trust, designating her children, Judy Nan Hacohen and Tom Dinell, as equal income beneficiaries. The trust was to terminate upon her death or 11 years after its creation, whichever occurred later, at which point the principal would revert to her estate. In 1964, Dinell transferred the reversionary interest in the trust's principal to her children. Simultaneously, she executed a codicil to her will, revoking specific bequests of $50,000 to each child. Dinell was in good health at the time of the transfer. She died in 1965, and the Commissioner of Internal Revenue determined the value of the transferred reversionary interest should be included in her gross estate under Section 2035 of the Internal Revenue Code.

Procedural History

The Commissioner of Internal Revenue issued a notice of deficiency, asserting that the 1964 transfer of the reversionary interest was made in contemplation of death and should be included in Dinell's gross estate. The Estate of Dinell filed a petition with the United States Tax Court challenging the deficiency. The Tax Court upheld the Commissioner's determination, ruling that the transfer was made in contemplation of death and thus includable in the estate.

Issue(s)

1. Whether the transfer of the reversionary interest in the trust by Judith C. Dinell to her children in 1964 was made in contemplation of death, thereby requiring its

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inclusion in her gross estate under Section 2035 of the Internal Revenue Code.

Holding

1. Yes, because the dominant motive of the decedent in making the transfer was to substitute such transfer for a testamentary disposition of the interest, which constitutes a transfer in contemplation of death under Section 2035.

Court's Reasoning

The court applied Section 2035 of the Internal Revenue Code, which includes in the gross estate any property transferred in contemplation of death. The court interpreted "contemplation of death" as encompassing transfers motivated by the desire to avoid estate taxes or to substitute for a testamentary disposition, even if the transferor is in good health. The court found that Dinell's transfer of the reversionary interest was a substitute for a testamentary disposition since it effectively removed the interest from her estate for tax purposes. This was supported by her simultaneous amendment to her will, removing specific bequests to her children, suggesting the transfer was part of her estate planning to minimize taxes. The court distinguished this from the creation of the trust in 1959, which was motivated by a desire to provide current financial support to her children. The court cited United States v. Wells, emphasizing that the motive must be associated with death, not merely life-related considerations. The court rejected the estate's argument that the transfer completed a gift transaction begun in 1959, as the 1959 trust and the 1964 transfer were distinct transactions with different purposes.

Practical Implications

This decision clarifies that estate planning strategies involving the transfer of property interests to reduce estate taxes can be scrutinized under Section 2035, even if the transferor is in good health. Attorneys must carefully consider the timing and motive of such transfers, as the court will examine whether the dominant motive was to avoid estate taxes or substitute for a testamentary disposition. Practitioners should advise clients to document life-related motives for transfers to counter potential challenges that they were made in contemplation of death. This case also highlights the importance of distinguishing between different types of transfers within estate planning, as the court will not treat integrated transactions as a single gift if they serve different purposes. Subsequent cases like Estate of Christensen v. Commissioner have applied this ruling, emphasizing the need for clear documentation of transfer motives.

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