Touche v. Commissioner, 58 T. C. 565 (1972)

A unilateral mistake in a gift deed can result in an incomplete gift for tax purposes if the grantor retains the power to revest title.

Summary

Margarita Touche attempted to gift portions of her property to trusts for her sisters in 1966 and 1967, intending to transfer only half the interest stated in the deeds due to her attorney's error. The Tax Court held that under Texas law, the unilateral mistake meant Touche retained the power to revest title, rendering the gift incomplete for tax purposes. This ruling underscores the importance of intent and the legal effect of mistakes in tax law, particularly regarding the completeness of gifts.

Facts

In 1966, Margarita Touche and her sister Loretto owned the Stanton Street property in El Paso, Texas. They intended to gift portions of their interest to trusts for their four other sisters to equalize ownership. Touche's attorney drafted deeds stating a transfer of a 5. 25% interest in 1966 and a 2. 1% interest in 1967, but due to a mathematical error, these percentages represented only half of Touche's intended gift. Touche was unaware of this error until notified by the IRS in 1968. She continued making annual gifts to the trusts and later filed a correction deed in 1972.

Procedural History

The IRS determined gift tax deficiencies for 1966 and 1967 based on the full percentages listed in the deeds. Touche petitioned the U. S. Tax Court, which held that due to the unilateral mistake and her power to revest title, the gift was incomplete for the tax years in question, resulting in a decision for the petitioner.

Issue(s)

1. Whether Touche's unilateral mistake in the deeds of gift rendered the transfer incomplete for federal gift tax purposes?

Holding

1. Yes, because under Texas law, Touche's unilateral mistake allowed her to retain the power to revest title, making the gift incomplete for the tax years in question.

Court's Reasoning

The court focused on the legal principle that a grantor's unilateral mistake in a voluntary conveyance can allow for reformation if no innocent parties have relied detrimentally on the conveyance. The court cited *Dodge v. United States* and related

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cases, which established that a grantor retains the right to restructure a transfer due to a unilateral mistake, rendering the gift incomplete for tax purposes. Under Texas law, as interpreted from relevant cases, Touche had the right to reform the deeds due to the attorney's error. The court emphasized that Touche's intent to transfer only half the stated interest, combined with her retained power to revest title, meant no completed gift occurred for the tax years in question. The decision highlighted the court's view that the mistake did not result in a completed gift, as Touche could legally correct the transfer.

Practical Implications

This case illustrates that in gift tax matters, the completeness of a gift hinges on the grantor's intent and legal ability to correct mistakes. Legal practitioners must ensure that deeds accurately reflect the grantor's intent to avoid unintended tax liabilities. The ruling suggests that in jurisdictions with similar laws, a grantor's unilateral mistake might not result in a completed gift if the grantor retains the power to revest title. This decision could influence future cases involving mistakes in gift deeds, emphasizing the need for careful drafting and review of such documents. It also highlights the importance of understanding state property law in federal tax cases, as local law can significantly impact tax outcomes.

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