Estate of Morris R. Silverman, Avrum Silverman, Executor, Petitioner v. Commissioner of Internal Revenue, Respondent, 61 T. C. 338 (1973)

A life insurance policy transferred within three years of death is presumed to be in contemplation of death, with inclusion in the gross estate based on the ratio of premiums paid by the decedent to total premiums.

Summary

Morris R. Silverman transferred a life insurance policy to his son, Avrum, six months before his death. The court held that this transfer was made in contemplation of death under section 2035 of the Internal Revenue Code, as it occurred within three years of his death and he was aware of his serious illness. The court further determined that only the portion of the policy's face value proportional to the premiums paid by the decedent should be included in his gross estate. Additionally, the court upheld the inclusion of inherited jewelry valued at $780 in the estate. This case clarifies the valuation of life insurance policies transferred in contemplation of death and the evidentiary burden on taxpayers to rebut the statutory presumption.

Facts

Morris R. Silverman purchased a life insurance policy in 1961 with a face value of $10,000, designating his wife as the primary beneficiary and his son, Avrum, as the secondary beneficiary. After his wife's death in December 1965, Silverman underwent a physical examination in late December due to health concerns, revealing a possible colon malignancy. On January 29, 1966, he transferred the policy to Avrum, who then paid all subsequent premiums. Silverman was hospitalized in February 1966, diagnosed with cancer, and died in July 1966. Avrum paid seven premiums before Silverman's death.

Procedural History

The Commissioner of Internal Revenue determined a deficiency in Silverman's estate tax, which was challenged by the estate. The Tax Court heard the case, focusing on whether the policy transfer was in contemplation of death, the amount to be included in the gross estate, and the inclusion of inherited jewelry.

Issue(s)

1. Whether the transfer of the life insurance policy by Morris R. Silverman to his son was made in contemplation of death under section 2035 of the Internal Revenue Code.
2. If the transfer was in contemplation of death, what amount of the policy's value should be included in Silverman's gross estate.
3. Whether certain jewelry inherited by Silverman from his wife should be included in his gross estate.

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Holding

1. Yes, because the transfer occurred within three years of Silverman's death, and he was aware of his serious illness, triggering the statutory presumption of contemplation of death.
2. The gross estate should include a portion of the policy's face value equal to the ratio of premiums paid by Silverman to the total premiums paid, as Avrum's contributions enhanced the policy's value.
3. Yes, because the estate failed to provide evidence contesting the inclusion of the jewelry valued at $780.

Court's Reasoning

The court applied the statutory presumption under section 2035(b) that transfers within three years of death are in contemplation of death unless proven otherwise. Silverman's health condition, recent loss of his wife, and the timing of the transfer supported the presumption. The court rejected the estate's argument that the transfer was motivated by a desire to avoid premium payments, finding instead that tax avoidance was a significant factor. Regarding the policy's value, the court considered the contributions made by Avrum post-transfer, determining that only the portion of the face value corresponding to Silverman's premium payments should be included in the estate. The court also upheld the inclusion of the jewelry, noting the estate's failure to contest the Commissioner's determination.

Practical Implications

This decision underscores the importance of the three-year presumption under section 2035 for life insurance policy transfers. It advises estate planners to consider the timing of such transfers and the potential tax implications, especially in cases of serious illness. The ruling also sets a precedent for calculating the taxable portion of transferred policies based on premium contributions, impacting how similar cases are valued. For practitioners, this case emphasizes the need for clear evidence to rebut the statutory presumption and the importance of addressing all assets, including inherited items, in estate tax disputes.

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