Estate of Max Silverman, Deceased, Blanche S. Silverman, Executrix, Petitioner v. Commissioner of Internal Revenue, Respondent, 61 T. C. 605 (1974)

Proceeds from annuity contracts assigned to an employee upon termination are not excludable from the gross estate under IRC § 2039(c) if they do not conform to the pension plan's payment requirements.

Summary

Max Silverman, a participant in his employer's qualified pension plan, was assigned annuity contracts upon his employment termination at age 61. These contracts matured at age 65, but Silverman did not convert them into annuities, instead retaining them until his death at age 70. The court held that the proceeds from these contracts were not excludable from Silverman's gross estate under IRC § 2039(c) because they were not payments received under a contract conforming to the pension plan's requirements, which mandated annuity commencement at age 65.

Facts

Max Silverman was employed by I. Schneierson & Sons, Inc. , and participated in its qualified pension plan. Upon terminating his employment at age 61 in 1957, the Pension Trust Committee assigned him five annuity contracts purchased by the plan. Silverman surrendered three of these contracts for their cash value but retained two, which matured at age 65. He did not convert these into annuities by the maturity date or by age 70, and upon his death at age 70, the proceeds were paid to his widow. The pension plan required annuities to commence at age 65, regardless of employment status.

Procedural History

The estate filed a federal estate tax return excluding the annuity proceeds under IRC § 2039(c). The Commissioner of Internal Revenue determined a deficiency, asserting the proceeds were includable in the gross estate. The estate petitioned the U. S. Tax Court, which upheld the Commissioner's position, ruling that the proceeds did not qualify for exclusion under IRC § 2039(c).

Issue(s)

1. Whether the proceeds of annuity contracts assigned to Max Silverman upon his employment termination are excludable from his gross estate under IRC § 2039(c).

Holding

1. No, because the proceeds were not amounts received under contracts which conformed to the requirements of the pension plan, as Silverman did not convert them into annuities at the required age of 65.

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Court’s Reasoning

The court reasoned that for annuity proceeds to be excludable under IRC § 2039(c), they must be payments received under a contract conforming to the qualified pension plan’s requirements. Silverman’s inaction in converting the contracts into annuities at age 65, as required by the plan, meant the proceeds were not received under the plan. The court distinguished this case from others where the annuities were either converted or payments were made under the plan’s terms. Judge Hall’s concurring opinion emphasized that Silverman’s failure to follow the plan’s payment provisions effectively converted the annuities into a personal savings arrangement, thus removing them from the scope of IRC § 2039(c). The court also noted that the legislative history and purpose of IRC § 2039(c) supported this interpretation, aiming to protect payments made under qualified plans, not those converted into non-qualifying arrangements.

Practical Implications

This decision clarifies that for annuity proceeds to be excluded from the gross estate under IRC § 2039(c), they must strictly adhere to the terms of the qualified pension plan. Estate planners must ensure clients understand the importance of following plan requirements, such as converting annuity contracts into income streams at the specified age. The ruling impacts how similar cases should be analyzed, emphasizing the need for strict compliance with plan terms to avail of tax benefits. It also highlights the potential for estate tax inclusion if participants deviate from plan requirements, even if unintentionally. Subsequent cases, such as *Estate of Albright*, have further refined the application of IRC § 2039(c), reinforcing the principle established in *Silverman*.

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