Parker v. Commissioner, 62 T. C. 192 (1974)

The marital deduction under IRC § 2056(a) is allowed for the full amount of property that passes to the surviving spouse, even if not formally distributed to them.

Summary

Grace M. Parker, as executrix of her late husband's estate, elected to take under his will, which included a formula marital bequest of 50% of the adjusted gross estate. She distributed most of this to herself but allocated $62,473. 68 directly to a residuary trust of which she was trustee and beneficiary. The IRS argued that the estate's marital deduction should be limited to the amount actually distributed to her. The Tax Court disagreed, ruling that the full amount bequeathed under the will 'passed' to her for marital deduction purposes, despite her subsequent transfer to the trust being treated as a taxable gift.

Facts

S. E. Parker died testate in 1967, leaving a will that provided Grace M. Parker, his surviving spouse, with a formula marital deduction bequest of 50% of his adjusted gross estate. Grace elected to take under the will and, as executrix, distributed most of the bequest to herself but directed $62,473. 68 to be paid directly to the residuary trust, of which she was trustee and life beneficiary. She conceded that this transfer was a taxable gift but argued that the full bequest should be considered for the marital deduction.

Procedural History

The estate filed a tax return claiming a marital deduction based on the full bequest. After audit, the IRS allowed a deduction but later issued a notice of deficiency, arguing the deduction should be limited to the amount distributed to Grace. Grace, as trustee and transferee, petitioned the Tax Court for a redetermination of the deficiency.

Issue(s)

1. Whether the full amount of the formula marital bequest, including the $62,473. 68 not distributed to Grace M. Parker but instead to the residuary trust, qualifies for the marital deduction under IRC § 2056(a).

Holding

1. Yes, because the full amount of the bequest 'passed' to Grace under the will, qualifying for the marital deduction even though she subsequently transferred part of it to the trust as a taxable gift.

Court's Reasoning

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The court interpreted IRC § 2056(a) to allow a marital deduction for any interest in property that 'passes or has passed' from the decedent to the surviving spouse, as long as it's included in the gross estate. The court emphasized that 'passing' does not require actual distribution, citing legislative history and regulations that focus on the interest given to the surviving spouse by the will or state law. Grace's election to take under the will meant the full bequest 'passed' to her, even if she later chose to transfer part of it to the trust. The court rejected the IRS's argument that the marital deduction should be limited to the amount distributed, stating this would make the deduction calculation impossible in estates not yet distributed at the time of filing. The court also dismissed the IRS's alternative argument that Grace's actions constituted a disclaimer, as her election to take under the will was an acceptance, not a refusal, of her rights under the will.

Practical Implications

This ruling clarifies that the marital deduction is based on the interest that 'passes' to the surviving spouse under the will, not on the actual distribution of assets. Practitioners should advise clients that the full amount of a formula marital bequest can qualify for the deduction, even if the surviving spouse later transfers part of it to another beneficiary. This decision impacts estate planning by allowing greater flexibility in asset distribution while still maximizing the marital deduction. It also affects IRS audits by establishing that the marital deduction calculation is not contingent on the timing or manner of asset distribution. Subsequent cases have followed this principle, further solidifying its application in estate tax law.

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