Estate of Harry E. Draper, Deceased, A. Frederick Richard and John T. Pratt III, Executors, and Estate of Elizabeth C. Draper, Deceased, Charles W. Downer and A. Frederick Richard, Administrators with Will Annexed, Petitioners v. Commissioner of Internal Revenue, Respondent, 64 T. C. 23 (1975)

The value of life insurance policies owned by a decedent who murdered the insured is includable in the decedent's estate for federal estate tax purposes, despite the decedent being barred from benefiting from the proceeds due to the murder.

Summary

Harry Draper, who owned and was the beneficiary of life insurance policies on his wife Elizabeth's life, murdered her and then committed suicide. The insurance proceeds were distributed to their children by a state probate court, applying the *Slocum* doctrine which prevents a beneficiary who murders the insured from benefiting. The Tax Court held that while Elizabeth's estate had no interest in the policies, the value of the policies was includable in Harry's estate for federal estate tax purposes. The court reasoned that Harry's ownership interest in the policies passed to others upon his death, and public policy did not require exclusion of the policies' value from his estate for tax purposes.

Facts

Harry Draper purchased two life insurance policies on his wife Elizabeth's life, designating himself as the beneficiary and retaining all incidents of ownership. On June 15, 1969, Harry feloniously shot and killed Elizabeth, then shot himself, dying on July 10, 1969. The policies had a net face value of $78,345. 68 at Elizabeth's death. The insurance company, John Hancock, did not pay the proceeds to Harry's estate due to the circumstances of Elizabeth's death, citing the *Slocum* doctrine. The Essex County Probate Court subsequently ordered the proceeds be distributed to the three children of Harry and Elizabeth, as neither estate could benefit from Harry's felonious act.

Procedural History

The executors of Harry's estate and administrators of Elizabeth's estate filed federal estate tax returns, reporting the existence of the policies but not including them in the taxable estates due to the uncertain value caused by the circumstances of Elizabeth's death. The Commissioner of Internal Revenue determined deficiencies in both estates, including the full insurance proceeds in each. The estates petitioned the U. S. Tax Court, which consolidated the cases and held that the proceeds were not includable in Elizabeth's estate but were includable in Harry's estate.

Issue(s)

1. Whether the proceeds of the life insurance policies on Elizabeth's life are

includable in her estate for federal estate tax purposes.
2. Whether the proceeds of the life insurance policies on Elizabeth's life are includable in Harry's estate for federal estate tax purposes.

Holding

1. No, because Elizabeth had no interest in or rights under the policies, and the state probate court found that her estate had no interest in the proceeds.
2. Yes, because Harry owned the policies and his interest in them passed to others upon his death, despite his inability to benefit from the proceeds due to his murder of Elizabeth.

Court's Reasoning

The court applied Massachusetts law, as determined by the state probate court, to conclude that Elizabeth's estate had no interest in the insurance proceeds. The court distinguished *Slocum v. Metropolitan Life Ins. Co.* , where the insured had an interest in the policy, from the present case where Elizabeth had no rights. Regarding Harry's estate, the court applied federal law under I. R. C. § 2033, which includes in the gross estate the value of all property to the extent of the decedent's interest at death. The court reasoned that Harry's interest was in the policies themselves, not the proceeds, and this interest passed to others upon his death. The court found that the *Slocum* doctrine, which prevents the beneficiary who murders the insured from benefiting, does not require exclusion of the policies' value from Harry's estate for tax purposes. The court emphasized that public policy would not be served by allowing Harry's estate to benefit from his felonious act through tax avoidance.

Practical Implications

This decision clarifies that the value of life insurance policies owned by a decedent who murders the insured is includable in the decedent's estate for federal estate tax purposes, even if the decedent cannot personally benefit from the proceeds. Estate planners and tax attorneys should be aware that ownership of the policy, rather than the right to the proceeds, is the key factor for estate tax inclusion. This ruling may impact estate planning strategies involving life insurance, particularly in situations where the policy owner and beneficiary are the same person. Subsequent cases, such as *Estate of Pennell v. Commissioner*, have cited this decision in addressing similar issues of estate tax inclusion of insurance proceeds in cases involving the murder of the insured by the policy owner.

