Estate of Olive Ruth Swenson, Deceased, Sue Swenson Stubbeman and Sherron Swenson Harvill, Co-Executors, Petitioners v. Commissioner of Internal Revenue, Respondent, 65 T. C. 243 (1975)

The effect of a disclaimer by a surviving spouse on the marital deduction depends on state law, and if the disclaimer results in no property passing to the surviving spouse, the marital deduction is not allowable.

Summary

Olive Ruth Swenson's will left her residuary estate to her husband, with a contingency for her daughters if he did not survive her by 30 days. Her husband survived but disclaimed his interest. The Tax Court held that the estate was not entitled to a marital deduction because under Texas law, the disclaimer treated the husband as having predeceased Swenson, causing the estate to pass to the daughters as provided in the will, not to the husband. The decision hinged on the interpretation of state law regarding the effect of a disclaimer on testamentary disposition and the absence of evidence that any interest would pass to the surviving spouse.

Facts

Olive Ruth Swenson died testate in Texas on June 17, 1970. Her will bequeathed her residuary estate to her husband, W. G. Swenson, Jr. , provided he survived her. If he did not survive her by 30 days, the estate would pass to her two daughters. W. G. Swenson survived his wife but executed a disclaimer on July 13, 1970, refusing to accept any property under the will. The estate claimed a marital deduction, but the IRS disallowed it, arguing no property passed to the surviving spouse due to the disclaimer.

Procedural History

The estate filed a Federal estate tax return claiming a marital deduction, which the IRS disallowed, leading to a deficiency notice. The estate petitioned the United States Tax Court, where the case was fully stipulated. The Tax Court considered the effect of the disclaimer under Texas law and ultimately denied the marital deduction.

Issue(s)

1. Whether the estate is entitled to a marital deduction under section 2056 of the Internal Revenue Code for the residuary estate bequeathed to the surviving spouse who disclaimed his interest.

Holding

1. No, because under Texas law, the disclaimer by the surviving spouse treated him

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as having predeceased the decedent, causing the residuary estate to pass to the daughters as provided in the will, rather than to the surviving spouse.

Court’s Reasoning

The court focused on the effect of the disclaimer under Texas law, as required by section 2056(d)(1) of the IRC. The court determined that since Texas law did not provide for the effect of a disclaimer at the time of Swenson’s death, it had to interpret Texas law as it believed the Texas Supreme Court would. It concluded that the disclaimer should be treated as if the disclaimant predeceased the decedent, consistent with the recently enacted Texas Probate Code section 37A. This interpretation aligned with the testator’s intent to dispose of her entire estate under the will and to provide for alternate beneficiaries in case the primary beneficiary did not take the estate. The court also noted the lack of evidence that any interest in the estate would actually pass to the surviving spouse, which was crucial for the marital deduction.

Practical Implications

This decision underscores the importance of state law in determining the effect of a disclaimer on the marital deduction. It highlights the necessity for estate planners to understand and anticipate how disclaimers will be treated under applicable state law. For estates in community property states like Texas, it clarifies that a surviving spouse’s disclaimer can result in no marital deduction if the estate passes to alternate beneficiaries under the will. Practitioners should consider the potential tax implications of disclaimers and ensure that clients are aware of how their estate plans might be affected by such actions. Subsequent cases involving disclaimers and marital deductions will need to carefully analyze the relevant state law to determine the tax consequences.

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