Estate of Semo A. Sulovich, Deceased, Helen Unkovich, Executrix, Petitioner v. Commissioner of Internal Revenue, Respondent, 66 T. C. 250 (1976)

Delivery of savings account passbooks with donative intent constitutes a completed gift, removing the funds from the donor's taxable estate.

Summary

Semo A. Sulovich created five savings accounts as trustee for his niece and her children in 1959, but in 1965, he delivered the passbooks to his niece, intending to make a gift. The Tax Court held that this act, combined with his clear donative intent, constituted a completed inter vivos gift, thus excluding the accounts from his estate under Sections 2038 and 2036 of the Internal Revenue Code. The decision was based on Texas law, which recognizes that the delivery of a passbook can effect a gift, and the court distinguished this case from others where no such unequivocal act of transfer occurred.

Facts

In 1959, Semo A. Sulovich opened five savings accounts at Dallas Federal Savings & Loan Association in Dallas, Texas, in his name as trustee for his niece, Helen Unkovich, and her four children. The accounts' signature cards reserved the right for Sulovich to withdraw funds during his lifetime, but he never did so, intending the funds for his niece and her children. In late 1965, Sulovich wrote to his niece, indicating his intent to send her the passbooks, which he did in early 1966. After a burglary in 1967, he mistakenly believed the original passbooks were stolen and sent duplicate passbooks to his niece. At no point did Sulovich request the return of the passbooks, and they remained with his niece until his death in 1969.

Procedural History

The Commissioner of Internal Revenue determined a deficiency in Sulovich's estate tax, asserting that the savings accounts should be included in his gross estate under Sections 2038 and 2036. The estate contested this, leading to a trial before the U. S. Tax Court. The court found in favor of the estate, ruling that the passbooks' delivery constituted a completed gift, and thus the accounts were not includable in Sulovich's estate.

Issue(s)

1. Whether the delivery of the passbooks by Sulovich to his niece in 1966 constituted a completed inter vivos gift, thereby excluding the savings accounts from his gross estate under Section 2038.
2. Whether the savings accounts were includable in Sulovich's gross estate under Section 2036 due to a retained interest in the property or income.

Holding

© 2025 SCOTUSreports.com. All rights reserved.

1. Yes, because Sulovich's delivery of the passbooks with clear donative intent constituted a completed gift under Texas law, removing the accounts from his estate under Section 2038.
2. No, because Sulovich did not retain any interest in the property or income after the gift was completed, thus the accounts were not includable under Section 2036.

Court's Reasoning

The court applied Texas law, which recognizes that the delivery of a passbook can effect a gift if accompanied by donative intent. Sulovich's actions, including his letter expressing intent to gift the accounts and the actual delivery of the passbooks, demonstrated his intent to make a gift. The court noted that Sulovich never withdrew funds from these accounts, contrasting with his other accounts from which he did withdraw, showing his intent to irrevocably gift the funds. The court distinguished this case from others like *Estate of Michael A. Doyle*, where no such unequivocal act of transfer occurred. The court also considered the sui generis nature of savings account trusts and the Texas Trust Act's effect on the revocability of trusts but found it unnecessary to decide whether the delivery of passbooks made the trust irrevocable because a gift had been completed. The decision emphasized the factual basis of such cases, with the court quoting that "the overwhelming weight of authority" supports that delivery of a passbook with donative intent constitutes a gift.

Practical Implications

This decision clarifies that the delivery of a savings account passbook, when accompanied by clear donative intent, can be a sufficient act to complete a gift under Texas law. Practitioners should advise clients to document their intent when making such gifts to avoid disputes upon death. This ruling impacts estate planning by providing a clear method for transferring ownership of savings accounts without formal trust agreements, potentially reducing estate tax liabilities. It also underscores the importance of understanding state-specific laws on gift completion. Subsequent cases have referenced *Estate of Sulovich* to affirm the principle that delivery of a passbook can constitute a completed gift, influencing estate planning strategies in similar situations.

© 2025 SCOTUSreports.com. All rights reserved.