Estate of Alice B. Penner, Deceased, Abraham Penner, David I. Penner, and Daniel B. Penner, Executors, Petitioner v. Commissioner of Internal Revenue, Respondent, 67 T. C. 864 (1977)

A power of appointment to withdraw trust principal for a 'business purpose' is not limited by an ascertainable standard under section 2041(b)(1)(A) of the Internal Revenue Code.

Summary

In Estate of Penner v. Commissioner, the U. S. Tax Court held that Alice B. Penner's power to withdraw up to $50,000 from a testamentary trust for a 'business purpose' was not limited by an ascertainable standard, as required by section 2041(b)(1)(A) of the Internal Revenue Code. The court reasoned that the term 'business purpose' was too broad and not clearly linked to the decedent's needs for health, education, support, or maintenance. Consequently, the full $50,000 was includable in her gross estate for tax purposes. This decision underscores the importance of precise language in drafting powers of appointment to avoid unintended tax consequences.

Facts

Alice B. Penner's mother, Rena H. Bernheim, created a testamentary trust for her children, including Alice. Under the trust, Alice could withdraw up to $7,500 annually and $35,000 in total for any purpose. Additionally, she could withdraw up to $50,000 for a 'business purpose,' as she desired, without any requirement that the withdrawal be linked to her needs. Alice died in 1971, and the Commissioner of Internal Revenue determined a deficiency in her estate tax, arguing that the power to withdraw for a 'business purpose' constituted a general power of appointment under section 2041 of the Internal Revenue Code.

Procedural History

The executors of Alice's estate filed a petition with the U. S. Tax Court challenging the Commissioner's determination. The court reviewed the case based on stipulated facts and focused on the interpretation of the 'business purpose' power under Mrs. Bernheim's will.

Issue(s)

1. Whether Alice B. Penner's power to withdraw trust principal for a 'business purpose' was limited by an ascertainable standard under section 2041(b)(1)(A) of the Internal Revenue Code.
2. If not, what amount was subject to this power of appointment?

Holding

1. No, because the term 'business purpose' was not clearly linked to Alice's needs

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for health, education, support, or maintenance.
2. The full $50,000 was subject to the power of appointment and includable in Alice's gross estate.

Court's Reasoning

The court applied section 2041(b)(1)(A) of the Internal Revenue Code, which excludes from a general power of appointment any power limited by an ascertainable standard relating to the holder's health, education, support, or maintenance. The court found that the term 'business purpose' was too broad and not clearly linked to Alice's needs. The court emphasized that the trust language allowed Alice to withdraw funds as she 'desired,' not as she 'needed,' and did not require the trustees to exercise discretion over the withdrawal. The court distinguished this case from others where the power of appointment was more clearly limited to the decedent's needs. The court also rejected the argument that the power was limited to $15,000, finding that the 'business purpose' power allowed Alice to withdraw the full $50,000.

Practical Implications

This decision highlights the importance of precise drafting in estate planning to avoid unintended tax consequences. Estate planners must ensure that powers of appointment are clearly linked to the holder's needs for health, education, support, or maintenance to fall within the safe harbor of section 2041(b)(1)(A). The case also demonstrates that broad terms like 'business purpose' may be interpreted as granting a general power of appointment, subjecting the property to estate tax inclusion. Estate planners should consider using more specific language or imposing trustee discretion to limit the scope of such powers. Subsequent cases have cited Estate of Penner to support the principle that broad powers of appointment are not limited by an ascertainable standard.

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