***Estate of W. Robert Amick, Deceased, Mary Childs, Charles W. Davee, and John Childs, Co-Executors, Petitioner v. Commissioner of Internal Revenue, Respondent, 67 T. C. 924 (1977)***

A bequest to a non-religious, non-charitable cemetery does not qualify for an estate tax charitable deduction under IRC section 2055(a)(1) or (2).

**Summary**

In Estate of Amick v. Commissioner, the U. S. Tax Court ruled that a $5,000 bequest to the Scipio Cemetery in Indiana was not deductible for estate tax purposes under IRC section 2055. The court found that the cemetery, managed by a private association and selling burial plots, did not qualify as an organization operated exclusively for charitable or public purposes. The decision hinged on the interpretation that the cemetery's primary function was commercial, not charitable, and it was not owned or operated by a governmental unit for exclusively public purposes.

**Facts**

W. Robert Amick's will included a $5,000 bequest to Scipio Cemetery, a 4-acre plot established in 1831 and expanded over time. The cemetery was maintained and managed by the Scipio Cemetery Association, which sold burial plots and used funds for maintenance. The estate claimed the bequest as a charitable deduction on its tax return, but the IRS disallowed it, leading to a deficiency.

**Procedural History**

The estate filed a tax return claiming the deduction, which was disallowed by the IRS. The estate then petitioned the U. S. Tax Court, which upheld the IRS's determination and ruled in favor of the Commissioner.

**Issue(s)**

1. Whether the bequest to Scipio Cemetery qualifies for a charitable deduction under IRC section 2055(a)(1) as a bequest to a governmental unit for exclusively public purposes.
2. Whether the bequest qualifies for a charitable deduction under IRC section 2055(a)(2) as a bequest to an organization operated exclusively for charitable purposes.

**Holding**

1. No, because the bequest was not to a governmental unit and was not for exclusively public purposes.
2. No, because the cemetery was not operated exclusively for charitable purposes, but rather for the sale of burial plots.

© 2025 SCOTUSreports.com. All rights reserved. 

## Court’s Reasoning

The court reasoned that the Scipio Cemetery Association, which managed the cemetery, was not a governmental unit, nor was the cemetery operated for exclusively public purposes. The court cited Revenue Ruling 67-170, which states that a cemetery selling burial lots is not considered to be operated exclusively for charitable purposes, even if it provides free burials for indigents. The court also relied on Wilber National Bank, Executor, which held that a cemetery association organized for cemetery purposes does not qualify as an organization operated exclusively for charitable purposes under IRC section 2055(a)(2). The court found no evidence that the cemetery was operated for charitable purposes or that it was a public cemetery. The court also distinguished Estate of Elizabeth L. Audenried, where a bequest to a church-owned cemetery was allowed as a deduction, noting the absence of religious connotations in the Amick case.

## Practical Implications

This decision clarifies that bequests to non-religious, non-charitable cemeteries do not qualify for estate tax deductions under IRC section 2055. Estate planners must ensure that bequests to cemeteries meet the criteria of being to a governmental unit for exclusively public purposes or to an organization operated exclusively for charitable purposes. The decision may impact how estates plan for charitable giving and how cemeteries structure their operations to qualify for such deductions. Subsequent cases, such as Child v. United States, have further refined the criteria for cemetery bequests, emphasizing the need for clear evidence of charitable or public purpose.

© 2025 SCOTUSreports.com. All rights reserved. 