T.C. Memo. 1980-92

Executors can validly disclaim a decedent's interest in a trust for estate tax purposes, and broad administrative powers granted to a trustee-beneficiary are not necessarily general powers of appointment if limited by fiduciary duties and explicit trust restrictions.

Summary

The Tax Court addressed whether the executors of Genevieve Rolin's estate could validly disclaim her interest in a marital deduction trust (Trust A) created by her deceased husband, Daniel Rolin, and whether she possessed a general power of appointment over a nonmarital trust (Trust B), thus including both trusts in her taxable estate. The court held that the disclaimer was valid under New York law and that Mrs. Rolin did not have a general power of appointment over Trust B because her powers were limited by fiduciary duties and restrictions on principal distribution. Consequently, only Trust B was excluded from her taxable estate.

Facts

Daniel Rolin created a revocable trust in 1958, retaining income for life. Upon his death, the trust was to be divided into Trust A (marital deduction trust) and Trust B (nonmarital trust). Genevieve Rolin, his wife, was to receive income from both trusts for life and had a general power of appointment over Trust A. The trust agreement allowed Mrs. Rolin or her executors to disclaim Trust A within 14 months of Mr. Rolin's death. Mr. Rolin died in 1968. Mrs. Rolin died shortly after in 1969. Her executors disclaimed her interest in Trust A within 15 days of their appointment and within the 14-month period.

Procedural History

The Commissioner of Internal Revenue determined a deficiency in Genevieve Rolin's estate tax, arguing both Trust A and Trust B should be included in her gross estate. The Estate of Rolin petitioned the Tax Court, which heard the case and issued this memorandum opinion.

Issue(s)

1. Whether the disclaimer and renunciation by the decedent's executors of decedent's interest in Trust A was effective so as to exclude the value of that trust from decedent's taxable estate.

2. Whether decedent had a general power of appointment over the assets of Trust B so as to include the value of that trust in decedent's taxable estate.

Holding

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1. Yes, because the disclaimer was valid under New York law and was made within a reasonable time after the decedent's interest became fixed upon her husband's death.

2. No, because the decedent's administrative powers over Trust B were limited by fiduciary duties under New York law and restrictions within the trust agreement, and did not constitute a general power of appointment.

Court's Reasoning

Trust A (Disclaimer): The court reasoned that under New York common law, executors could renounce testamentary gifts. It rejected the Commissioner's attempt to distinguish between testamentary and *inter vivos* trusts in this context, noting the revocable nature of Mr. Rolin's trust made it akin to a testamentary disposition. The trust agreement explicitly provided for disclaimer by the wife or her executor. The court held that the "reasonable time" for disclaimer began when Mrs. Rolin's interest became indefeasibly fixed at her husband's death, not at the trust's creation in 1958, citing *Keinath v. Commissioner*. The court concluded that the 8-month period between Mr. Rolin's death and the disclaimer was reasonable.

Trust B (Power of Appointment): The Commissioner argued that Mrs. Rolin's broad administrative powers over Trust B constituted a general power of appointment. The court disagreed, stating that under New York law, even broad powers granted to a trustee-beneficiary are constrained by fiduciary duties. Quoting *Carrier v. Carrier*, the court emphasized New York courts would impose a fiduciary duty on the decedent. Furthermore, the trust agreement explicitly prohibited any trustee from paying principal "to or for the benefit of himself or herself." The court distinguished this case from those where a beneficiary could terminate a trust for their own benefit, finding no such authority for Mrs. Rolin. The court stated, "In light of these prohibitions, it is difficult to understand how the decedent could exercise her investment power, which under New York law must be exercised in a fiduciary capacity, for her own benefit."

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