Estate of Gregg v. Commissioner, 69 T. C. 488 (1977)

A grantor trust's replacement of condemned property after the grantor's death can qualify for nonrecognition treatment under section 1033 if the replacement completes the grantor's pre-death plans.

Summary

In Estate of Gregg v. Commissioner, the Tax Court ruled that a grantor trust's replacement of condemned property with new property after the grantor's death qualified for nonrecognition of gain under section 1033 of the Internal Revenue Code. The trust, established by Harry A. Gregg, was condemned, and the trustee, Hugh Gregg, reinvested the proceeds both before and after Harry's death. The court held that since the post-death replacements were a continuation of the grantor's plans and made on his behalf, they qualified for nonrecognition treatment. This decision clarifies that the timing of a grantor's death does not necessarily preclude nonrecognition of gain if the trust's actions align with the grantor's intentions.

Facts

Harry A. Gregg created a revocable trust in 1965, naming his son Hugh Gregg as trustee and funding it with real property in Sarasota, Florida. The trust agreement provided income to Harry for life and the power to revoke the trust at any time. After Harry's death, income was to be distributed to his grandchildren for 15 years, after which the trust corpus would be distributed. In 1971, the county condemned the trust's property, resulting in a $1,810,446 award. The trust elected nonrecognition under section 1033 and began reinvesting the proceeds. Harry died before the reinvestment was complete, but Hugh continued the plan, reinvesting additional proceeds by December 31, 1973.

Procedural History

The IRS determined a tax deficiency against the petitioners, Harriett H. Gregg and Hugh Gregg, executor of Harry's estate, claiming that only the reinvestments made before Harry's death qualified for nonrecognition treatment. The case was heard by the Tax Court, which fully stipulated the facts under Rule 122 of the Tax Court Rules of Practice and Procedure.

Issue(s)

1. Whether the replacement of condemned property by a grantor trust after the grantor's death qualifies for nonrecognition treatment under section 1033 of the Internal Revenue Code.

Holding

1. Yes, because the replacements made by the trust after the grantor's death were a

© 2025 SCOTUSreports.com. All rights reserved.

continuation of the grantor's pre-death plans and were made on his behalf, thus qualifying for nonrecognition treatment under section 1033.

Court's Reasoning

The Tax Court applied the principle that the grantor of a revocable trust is treated as the owner of the trust corpus for tax purposes under sections 671 and 676 of the Internal Revenue Code. The court cited previous cases like Estate of Morris v. Commissioner, which established that nonrecognition under section 1033 can continue after the taxpayer's death if the replacements are made on behalf of the decedent and in accordance with their plans. The court emphasized that the trust's actions after Harry's death were a seamless continuation of his replacement plan, and the trustee, Hugh Gregg, was acting on behalf of the grantor. The court also noted that the legal distinctions between executors and trustees were not controlling, focusing instead on whether the replacements completed the grantor's plans. A key quote from the court's decision was: "Here, the decedent was the architect of the plan of replacement and had, prior to his death, set in motion the actions to implement that plan. He was precluded from completing those actions by the untimely event of death. Thereafter, his successors in interest, proceeding in strict accordance with the decedent's plan, finished the job. "

Practical Implications

This decision has significant implications for estate planning and tax law. It clarifies that the nonrecognition benefits under section 1033 can extend beyond the grantor's death if the trust's actions are in line with the grantor's pre-death plans. This ruling allows for greater flexibility in estate planning, especially in situations where property condemnation occurs near the grantor's death. Legal practitioners should ensure that trust documents clearly outline the grantor's intentions regarding property replacement to facilitate nonrecognition treatment. The decision also impacts how similar cases involving trusts and tax treatment of condemned property are analyzed, emphasizing the continuity of the grantor's plans over the timing of their death. Subsequent cases have referenced Estate of Gregg to support similar outcomes, reinforcing its precedential value in tax law.

© 2025 SCOTUSreports.com. All rights reserved.