Estate of George E. P. Gamble, Crocker National Bank, Executor, Petitioner v. Commissioner of Internal Revenue, Respondent, 69 T. C. 942, 1978 U. S. Tax Ct. LEXIS 157 (1978)

State gift taxes paid by a decedent prior to death, which are credited against post-death state inheritance taxes, do not constitute a property interest includable in the decedent's gross estate under IRC Section 2033.

Summary

George E. P. Gamble made substantial gifts before his death and paid California gift taxes on those gifts. After his death, the gifts were included in his gross estate as transfers made in contemplation of death, and the state allowed a credit against inheritance taxes for the gift taxes paid. The Commissioner of Internal Revenue sought to include the amount of the state gift taxes in Gamble's gross estate, arguing that it represented a prepaid inheritance tax liability. The Tax Court disagreed, ruling that the gift taxes paid did not constitute an interest in property at the time of death that could be included in the gross estate under IRC Section 2033, as the decedent had no legal right to control the credit or its economic benefits.

Facts

George E. P. Gamble made gifts valued at $5,207,737. 56 in September 1971, managed by his conservator. He paid Federal gift taxes of $2,800,766. 94 and California gift taxes of $861,303. 15. Gamble died on May 20, 1972. Posthumously, the gifts were included in his gross estate as transfers in contemplation of death. California allowed a credit of $861,303 against its inheritance tax for the gift taxes paid. The IRS sought to include this amount in Gamble's gross estate, claiming it represented a prepaid inheritance tax.

Procedural History

The estate filed a federal estate tax return that did not include the state gift taxes in the gross estate. The Commissioner issued a notice of deficiency, increasing the gross estate by the amount of the state gift taxes paid. The estate petitioned the U. S. Tax Court for a redetermination of the deficiency. The Tax Court held for the petitioner, ruling that the state gift taxes paid were not includable in the gross estate under IRC Section 2033.

Issue(s)

1. Whether the state gift taxes paid by the decedent prior to death, which were credited against state inheritance taxes post-death, constitute an interest in property at the time of death includable in the decedent's gross estate under IRC Section 2033.

Holding

1. No, because the decedent had no interest in property at the time of death that could be included in the gross estate. The state gift taxes paid were unconditional and did not create a property interest that could pass to the estate upon the decedent's death.

Court's Reasoning

The court focused on the requirement of IRC Section 2033 that the decedent must have an interest in property at the time of death for it to be included in the gross estate. The court rejected the Commissioner's argument that the state gift taxes represented a prepaid inheritance tax, emphasizing that the decedent had no legal right to control the credit against inheritance taxes. The court cited Estate of Lang v. Commissioner, which held that state gift taxes paid prior to death are not assets includable in the gross estate. The court also distinguished Estate of Pratt v. Commissioner, where the decedent had created a trust that directly benefited the estate, unlike the situation here where the credit arose solely from state law after the decedent's death. The court concluded that the decedent's payment of state gift taxes did not result in an interest in property capable of passing to his estate upon his death.

Practical Implications

This decision clarifies that state gift taxes paid before death, which are credited against state inheritance taxes, do not constitute an asset includable in the decedent's gross estate under IRC Section 2033. Practitioners should be aware that only property interests that the decedent beneficially owned at the time of death can be included in the gross estate. This ruling may affect estate planning strategies involving gifts made in contemplation of death, as it removes the risk of double taxation on the same funds for gift and estate tax purposes. Subsequent cases and IRS guidance should be monitored for any changes in this area, but currently, this decision stands as a precedent against including such state gift taxes in the gross estate.

