Estate of Virginia I. Humbert, Deceased, Philip J. O'Connell and F. King Tiedeman, Coexecutors, Petitioner v. Commissioner of Internal Revenue, Respondent; Estate of Ralph H. Humbert, Deceased, Philip J. O'Connell and F. King Tiedeman, Coexecutors, Petitioner v. Commissioner of Internal Revenue, Respondent, 70 T. C. 542 (1978)

Post-death amendments to trust instruments cannot qualify charitable remainder interests for deduction if they did not meet pre-1969 law requirements at the time of the decedent's death.

Summary

In Estate of Humbert v. Commissioner, the court ruled that charitable remainder interests in trusts created by the decedents were not deductible under Section 2055(a) of the Internal Revenue Code because they did not meet the 'presently ascertainable' standard at the time of the decedents' deaths. The trusts allowed for discretionary invasion of the corpus for the benefit of a non-charitable beneficiary, making the charitable interests non-severable and their value non-calculable. Post-death amendments to conform the trusts with the Tax Reform Act of 1969 did not suffice to qualify them for a deduction, as the interests had to be deductible under pre-1969 law to benefit from the amendments.

Facts

Virginia I. Humbert and Ralph H. Humbert created identical trusts on September 5, 1969, reserving monthly payments during their lifetimes. Upon their deaths in January 1971, the trusts provided for payments to Martha Irene Humbert, with discretionary invasion of the principal 'as the Trustee deems necessary in its discretion. ' After their deaths, the trusts were amended in December 1972 to conform with the charitable remainder unitrust provisions of the Tax Reform Act of 1969. The estates claimed deductions for charitable remainder interests, which the Commissioner disallowed.

Procedural History

The estates filed Federal estate tax returns claiming deductions for the charitable remainder interests. The Commissioner issued notices of deficiency disallowing these deductions. The estates then petitioned the U. S. Tax Court, which ruled in favor of the Commissioner, holding that the charitable interests were not deductible under Section 2055(a).

Issue(s)

1. Whether the charitable remainder interests in the trusts were deductible under Section 2055(a) of the Internal Revenue Code as of the decedents' deaths in 1971.
2. Whether the post-death amendments to the trusts in 1972 could qualify the charitable remainder interests for a deduction under Section 2055(e)(3) and the

transitional regulations.

Holding

1. No, because the charitable remainder interests were not ‘presently ascertainable’ at the time of the decedents’ deaths, as the trusts allowed for discretionary invasion of the corpus for the benefit of Martha Irene Humbert.
2. No, because Section 2055(e)(3) and the transitional regulations do not permit post-death amendments to qualify trusts for a deduction if they did not meet the requirements of pre-1969 law at the time of the decedents’ deaths.

Court’s Reasoning

The court applied the pre-1969 law standard that the charitable remainder interest must be ‘presently ascertainable’ and severable from the non-charitable interest at the time of the decedent’s death. The court found that the trusts’ provision allowing discretionary invasion of the corpus for Martha’s ‘benefit’ did not provide a sufficiently definite standard to value the charitable interests accurately at the decedents’ deaths. The court cited Supreme Court cases like Ithaca Trust Co. v. United States and Merchants Bank v. Commissioner to illustrate the distinction between ascertainable and non-ascertainable standards for corpus invasion. The court also interpreted Section 2055(e)(3) and the transitional regulations as not intended to allow post-death amendments to qualify trusts for a deduction if they did not meet pre-1969 law requirements at the time of death. The court upheld the validity of temporary regulations issued by the Treasury Department, which limited the right to amend trusts to those that qualified under pre-1969 law.

Practical Implications

This decision clarifies that post-death amendments cannot retroactively qualify charitable remainder interests for a deduction if they did not meet the requirements of pre-1969 law at the time of the decedent’s death. Practitioners must ensure that charitable remainder interests are severable and their value is calculable at the time of the decedent’s death to qualify for a deduction. The decision also underscores the importance of precise language in trust instruments, as broad discretionary powers to invade the corpus for the benefit of non-charitable beneficiaries can render charitable interests non-deductible. This case has been cited in subsequent decisions to interpret the ‘presently ascertainable’ standard and the applicability of post-death amendments to trusts.