Estate of James E. Curry, Deceased, Aileen Curry-Cloonan and Beulah Bullard, Coexecutrices, Petitioner v. Commissioner of Internal Revenue, Respondent, 74 T. C. 540 (1980)

The value of a decedent's contractual right to contingent legal fees must be included in the gross estate for estate tax purposes, even if the fees are not yet compensable at the time of death.

Summary

James E. Curry had a contractual right to a percentage of contingent legal fees from 13 pending Indian claims cases at his death. The issue was whether this right should be included in his gross estate and, if so, its value. The Tax Court held that the right to contingent fees constitutes property under sections 2031 and 2033 of the Internal Revenue Code and must be included in the estate. The court valued the right at $165,000, considering the nature and stage of the cases, past successes, potential delays, and competing claims. This decision underscores that contingent legal fees, though uncertain, have a value that must be assessed for estate tax purposes.

Facts

James E. Curry, an attorney, had a 1966 agreement with I. S. Weissbrodt to receive 18-24% of any attorney's fees from 13 Indian claims cases. At Curry's death in 1972, these cases were still pending before the Indian Claims Commission. Two cases were nearly resolved, with the estate receiving fees four months post-death. Three years later, fees from two more cases were placed in escrow, and five years later, fees from another case were received after settling third-party claims. Seven cases remained unresolved at trial.

Procedural History

The Commissioner determined a deficiency in estate tax against Curry's estate, which challenged the inclusion and valuation of Curry's contingent fee interest. The Tax Court addressed the issue of whether these contingent fees should be included in the gross estate and, if so, their valuation as of Curry's death date.

Issue(s)

1. Whether a decedent's contractual right to share in contingent legal fees is includable in the gross estate under sections 2031 and 2033 of the Internal Revenue Code?
2. If includable, what is the fair market value of the contractual right to share in contingent legal fees as of the date of death?

Holding

1. Yes, because the right to contingent fees is considered property under sections

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2031 and 2033 and must be included in the gross estate, even if not yet compensable at death.
2. The fair market value of the contractual right to share in contingent legal fees from the 13 cases was $165,000 as of the date of death, considering the nature and progress of the cases and other relevant factors.

Court's Reasoning

The court applied sections 2031 and 2033, which include all property in the gross estate, and found that the term "property" encompasses choses in action, such as Curry's contingent fee interest. The court rejected the estate's argument that the contingent nature of the fees precluded their inclusion, emphasizing that the contingency affects valuation, not includability. The court valued the right at $95,000 for two nearly completed cases and $70,000 for the remaining 11, considering the types of claims, their stage, past successes, potential delays, and competing claims. The court recognized valuation challenges but stressed the necessity of assessment for estate tax purposes, referencing cases like *Estate of McGlue v. Commissioner* and *Duffield v. United States*.

Practical Implications

This decision clarifies that contingent legal fees must be included in a decedent's estate, impacting estate planning and tax calculations. Attorneys must now assess the value of such interests, even if speculative, when preparing estate tax returns. The ruling may affect how attorneys structure fee agreements and how estates manage and report contingent interests. It also influences subsequent cases involving the valuation of uncertain or future income rights for estate tax purposes, reinforcing the need for careful valuation even in the face of uncertainty.

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