BBS Associates, Inc. v. Commissioner, 74 T. C. 1118 (1980)

A qualified plan under IRC sec. 401(a) need not have a qualified joint and survivor annuity as the normal form of distribution if it offers an annuity option.

Summary

BBS Associates, Inc. sought a declaratory judgment that its profit-sharing plan was qualified under IRC sec. 401(a). The plan allowed a lump-sum payment as the default distribution but permitted participants to elect an annuity, which would be a qualified joint and survivor annuity unless opted out. The IRS argued that offering an annuity required the plan to make the qualified joint and survivor annuity the normal form of distribution. The Tax Court disagreed, holding that the statute did not mandate this requirement and invalidated an IRS regulation suggesting otherwise. The court found the plan qualified under sec. 401(a), emphasizing that the legislative history did not support the IRS's interpretation and that the plan's structure aligned with Congressional intent to protect surviving spouses.

Facts

BBS Associates, Inc. adopted a profit-sharing plan on August 1, 1975, and filed for a determination of its qualification under IRC sec. 401(a) on September 16, 1975. The plan provided that the normal form of distribution was a lump-sum payment, but participants could elect an annuity, which would automatically be a qualified joint and survivor annuity unless the participant elected otherwise. The IRS issued a proposed adverse determination on October 1, 1976, asserting that the plan did not meet the requirements of sec. 401(a)(11) because it did not make the qualified joint and survivor annuity the normal form of distribution. BBS Associates appealed the determination but, after no final decision was reached, filed for a declaratory judgment on July 1, 1977.

Procedural History

BBS Associates filed for a declaratory judgment under IRC sec. 7476(a)(2)(A) after the IRS failed to issue a final determination within 270 days of the initial application. The Tax Court found jurisdiction and that BBS Associates had exhausted its administrative remedies. The case was submitted on a stipulated record, and the court rendered its decision based on the legal arguments presented.

Issue(s)

1. Whether IRC sec. 401(a)(11)(A) and (E) require that if an annuity is offered under a plan, the normal form of benefit distribution must be a qualified joint and survivor annuity for the plan to be qualified under sec. 401(a).

Holding

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1. No, because the statute does not explicitly require a qualified joint and survivor annuity to be the normal form of distribution under a plan that offers an annuity. The IRS's interpretation, supported by an example in the regulations, was deemed invalid as it added a requirement not found in the statute.

Court's Reasoning

The Tax Court analyzed the statutory language of sec. 401(a)(11)(A) and (E), concluding that these provisions only required that if an annuity is offered, it must have the effect of a qualified joint and survivor annuity and allow participants to elect not to take such an annuity. The court rejected the IRS's argument that the legislative history supported an additional requirement that the qualified joint and survivor annuity must be the normal form of distribution. The court found the IRS's example in the regulations to be invalid as it added a requirement not supported by the statute. The court also noted that the plan's structure protected the interests of surviving spouses, aligning with the policy objectives of the Employee Retirement Income Security Act of 1974. Judge Chabot concurred, emphasizing that the statute did not prohibit the administrative committee consent provision in the plan but suggested that regulations could address potential abuses of such provisions.

Practical Implications

This decision clarifies that a qualified plan under IRC sec. 401(a) can offer an annuity option without mandating that the qualified joint and survivor annuity be the normal form of distribution. Attorneys drafting or advising on employee benefit plans should ensure that any annuity offered meets the statutory requirements but can structure the plan to allow for other default distribution methods, such as lump-sum payments. This ruling may encourage more flexibility in plan design, allowing employers to offer varied distribution options while still complying with the law. Subsequent cases, such as those involving plan amendments or terminations, should consider this ruling when assessing the qualification of plans under sec. 401(a). The decision also underscores the importance of statutory interpretation over regulatory examples that extend beyond the statute's text.

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