Estate of Shirley Pollock, Deceased, Neal J. Pollock, Personal Representative, Petitioner v. Commissioner of Internal Revenue, Respondent, 77 T. C. 1296 (1981)

A discretionary life interest in a trust cannot be valued for estate tax credit purposes if it does not guarantee a fixed or determinable portion of income.

Summary

In Estate of Pollock v. Commissioner, the U. S. Tax Court ruled that Shirley Pollock's discretionary life interest in a trust established by her late husband, Sol Pollock, did not qualify for an estate tax credit under section 2013 of the Internal Revenue Code. The trust allowed the trustee to distribute income among Shirley and her two sons at the trustee's discretion, without any assurance of a fixed share for Shirley. The court found that her interest was not susceptible to valuation due to the trustee's broad discretion and potential invasions of principal, thus disallowing the credit claimed by her estate.

Facts

Sol Pollock created an inter vivos revocable trust in 1968, with the trust corpus consisting of insurance policies. Upon his death in 1974, the trust was to be divided into a marital deduction trust for Shirley Pollock, giving her income and principal as requested, and a remainder trust for Shirley and their two sons, Neal and Stephen. The remainder trust allowed the trustee to distribute income among Shirley and her sons "in such proportions as he determines without being required to maintain equality among them," based on their needs. The trustee could also invade principal for the beneficiaries' needs or to fund business ventures for the sons. Shirley Pollock died in 1976, and her estate claimed a credit under section 2013 for the tax paid on her husband's estate, treating her interest in the remainder trust as a life estate.

Procedural History

The Commissioner of Internal Revenue disallowed the claimed credit, leading Shirley's estate to file a petition with the U. S. Tax Court. The court heard the case and issued its decision in 1981, affirming the Commissioner's determination and disallowing the credit.

Issue(s)

1. Whether Shirley Pollock's discretionary interest in the income of the remainder trust qualified as "property" under section 2013 of the Internal Revenue Code, allowing her estate to claim a credit for estate tax paid on her husband's estate.

Holding

1. No, because Shirley Pollock's interest in the remainder trust was not a fixed right

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to all or a determinable portion of the income, making it impossible to value for purposes of the section 2013 credit.

Court’s Reasoning

The court focused on the language of the trust instrument, which gave the trustee broad discretion to distribute income among Shirley and her sons without any requirement to allocate a specific share to Shirley. The court found that this discretionary power, coupled with the possibility of principal invasions that could reduce the trust’s income, made Shirley’s interest impossible to value actuarially. The court emphasized that the trust did not favor Shirley over her sons and that her interest was subject to significant uncertainty. The court also rejected the argument that Shirley’s receipt of all trust income during her lifetime should retroactively establish the value of her interest, as valuation must be determined as of the transferor’s date of death. The court distinguished this case from others where the beneficiary had a more defined interest, citing the need for a clear standard to value an interest for tax credit purposes.

Practical Implications

This decision underscores the importance of clear and specific language in trust instruments when seeking to establish a life estate or other interest that can be valued for tax purposes. Practitioners drafting trusts should be cautious about using discretionary language if the goal is to provide a beneficiary with a fixed or determinable interest. For estate planning, this case highlights the potential tax consequences of discretionary trusts and the need to consider alternative structures, such as mandatory income trusts, when seeking to maximize estate tax credits. The ruling also impacts how similar cases should be analyzed, requiring a focus on the language of the trust and the extent of the trustee’s discretion in determining the value of a beneficiary’s interest. Subsequent cases have cited Estate of Pollock when addressing the valuation of discretionary interests for tax purposes, reinforcing its significance in estate and trust law.

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