Estate of Geraldine W. Harmon, Deceased, Walter I. Bregman, Executor, Petitioner v. Commissioner of Internal Revenue, Respondent, 84 T. C. 329 (1985)

A bequest to a surviving spouse conditioned on surviving the distribution of the estate creates a terminable interest ineligible for the marital deduction if the condition extends beyond six months after the decedent's death.

Summary

Geraldine Harmon bequeathed her condominium and contents to her husband, Sidney, with an alternate gift to her son if Sidney did not survive the distribution of her estate. After her death, the IRS disallowed a marital deduction for the bequest to Sidney, arguing it was a terminable interest because it could terminate if Sidney died before the estate was distributed. The Tax Court agreed, ruling that under California law, 'distribution of my estate' meant the entry of a final decree of distribution, which could occur more than six months after death. Therefore, Sidney's interest was terminable, and no marital deduction was allowed.

Facts

Geraldine W. Harmon died testate in California in 1977. Her will, executed in 1974, bequeathed her condominium and its contents to her husband, Sidney Harmon, but provided an alternate gift to her son, Walter I. Bregman, if Sidney did not 'survive distribution of my estate. ' Sidney survived Geraldine's death and the final decree of distribution of her estate, which was entered more than 13 months after her death. The estate claimed a marital deduction for the bequest to Sidney, but the IRS disallowed it, arguing that the bequest was a terminable interest under Section 2056(b) of the Internal Revenue Code.

Procedural History

The executor of Geraldine's estate filed a timely estate tax return and claimed a marital deduction for the bequest to Sidney. The IRS issued a notice of deficiency disallowing the deduction, and the estate petitioned the Tax Court. The court heard arguments on whether the phrase 'fails to survive distribution of my estate' created a terminable interest under Section 2056(b).

Issue(s)

1. Whether the bequest to Sidney Harmon, conditioned on his surviving the distribution of Geraldine's estate, created a terminable interest under Section 2056(b) of the Internal Revenue Code, thus making it ineligible for the marital deduction.

Holding

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1. Yes, because under California law, ‘distribution of my estate’ meant the entry of the final decree of distribution, which could occur more than six months after Geraldine’s death. Therefore, the bequest to Sidney was a terminable interest and ineligible for the marital deduction.

Court’s Reasoning

The court applied California law to determine the meaning of ‘distribution of my estate,’ finding it meant the entry of the final decree of distribution, not just surviving Geraldine’s death. The court considered extrinsic evidence, such as the circumstances surrounding the will’s execution, but found no clear intent to deviate from the technical meaning of the phrase. The court cited numerous California cases where similar language was interpreted to mean surviving the final decree of distribution. The court also noted that the IRS’s position was supported by prior estate tax cases applying California law to similar bequests. The court rejected the estate’s argument that the phrase was ambiguous, finding it had a well-established meaning in California probate practice.

Practical Implications

This decision underscores the importance of precise language in wills, particularly when conditioning bequests on surviving events beyond the testator’s death. Estate planners must be aware that conditions tied to estate distribution, rather than the testator’s death, may create terminable interests that could disqualify bequests from the marital deduction. This case may prompt practitioners to review existing estate plans to ensure bequests are structured to avoid unintended tax consequences. It also highlights the need to consider state-specific probate terminology when drafting wills, as the same phrase can have different meanings in different jurisdictions. Subsequent cases have generally followed this ruling, reinforcing the need for careful drafting to achieve desired tax outcomes.

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