Ewart v. Commissioner, 85 T. C. 544 (1985)

A transferee of an insolvent estate may be held liable for unpaid estate taxes if the transfer was made without fair consideration.

Summary

In Ewart v. Commissioner, the Tax Court addressed whether Roger Ewart, co-executor and transferee of his mother's estate, was liable for unpaid estate taxes. The estate became insolvent after distributing assets to Ewart and his brother without consideration. The court held that Ewart was liable as a transferee under IRC section 6901, based on Ohio's fraudulent conveyance law. This decision underscores that one co-executor can bind the estate, and transferees may be held accountable for estate tax liabilities when an estate is rendered insolvent by distributions.

Facts

Blanche L. Ewart died in 1978, and her will appointed her sons, Roger and John, as co-executors. They were also the sole beneficiaries. In February 1979, they received real estate from the estate without consideration, rendering it insolvent. John signed the estate tax return and a waiver of restrictions on assessment, but Roger did not. The IRS later determined an estate tax deficiency, which remained unpaid. Roger received a notice of transferee liability.

Procedural History

The Commissioner issued a notice of deficiency to Roger Ewart as fiduciary and transferee. Both parties filed motions for summary judgment. The Tax Court granted the Commissioner's motion, ruling that Roger was liable as a transferee under IRC section 6901(a)(1)(A)(ii).

Issue(s)

1. Whether Roger Ewart is liable as a transferee under IRC section 6901(a)(1)(A)(ii) for the estate's unpaid tax liability.
2. Whether the waiver of restrictions on assessment and collection executed by John Ewart and the estate's attorney was binding on the estate.

Holding

1. Yes, because the transfer of estate assets to Roger without consideration rendered the estate insolvent, making the transfer fraudulent under Ohio law, and thus Roger is liable as a transferee.
2. Yes, because under federal law, one co-executor can bind the estate through a waiver of restrictions on assessment and collection, and Roger did not provide sufficient notice of his fiduciary status to the IRS.

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Court’s Reasoning

The court applied IRC section 6901, which allows the Commissioner to pursue transferees for unpaid taxes. Ohio law on fraudulent conveyances was used to determine liability, as the estate’s transfers to Roger and John were without fair consideration and rendered the estate insolvent. The court rejected Roger’s argument that the waiver signed by John was not binding, citing federal law that allows one co-executor to act. The court also found that Roger did not provide adequate notice of his fiduciary status to the IRS, thus the waiver was effective. The court’s decision was influenced by policy considerations to ensure the collection of estate taxes from those who benefited from the estate’s assets.

Practical Implications

This decision impacts how estates should manage distributions to avoid transferee liability, particularly when an estate is potentially insolvent. It clarifies that under federal tax law, one co-executor can bind the estate, which may affect estate administration practices. Practitioners should advise clients on the risks of transferee liability and the importance of proper notice to the IRS of fiduciary status. This case has been cited in subsequent cases dealing with transferee liability and the binding nature of waivers executed by co-executors, reinforcing the need for careful estate planning and administration.

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