Estate of Anthony F. DiMarco, Deceased, Joan M. DiMarco, Personal Representative, Petitioner v. Commissioner of Internal Revenue, Respondent, 87 T. C. 653 (1986)

An employee's participation in a noncontributory, employer-funded survivor income benefit plan does not constitute a taxable gift to the employee's survivors.

Summary

Anthony F. DiMarco's estate challenged a tax deficiency based on the IRS's claim that the present value of a survivor income benefit from IBM, payable to DiMarco's widow, constituted an adjusted taxable gift. The Tax Court held that DiMarco did not make a taxable gift because his participation in IBM's plan was involuntary and he lacked control over the benefit. The court reasoned that DiMarco never owned a transferable property interest in the benefit, and thus no gift occurred. This ruling clarifies that noncontributory employer benefits are not taxable gifts when the employee has no control over the benefit's terms or beneficiaries.

Facts

Anthony F. DiMarco was employed by IBM from January 9, 1950, until his death on November 16, 1979. IBM maintained a noncontributory Group Life Insurance and Survivors Income Benefit Plan, which automatically covered all regular employees, including DiMarco. The plan provided a survivor income benefit payable only upon an employee's death to eligible survivors, such as the spouse, minor children, or dependent parents. DiMarco had no power to select or change the beneficiaries, alter the amount or timing of payments, or terminate his coverage except by resigning. IBM reserved the right to modify the plan at any time. Following DiMarco's death, his widow, Joan M. DiMarco, received the survivor income benefit. The IRS determined that the present value of this benefit was an adjusted taxable gift, resulting in a deficiency in the estate's federal estate tax.

Procedural History

The IRS issued a notice of deficiency on May 4, 1983, asserting that the survivor income benefit constituted an adjusted taxable gift, resulting in a $17,830. 88 deficiency in DiMarco's estate tax. The estate filed a petition with the U. S. Tax Court, which heard the case fully stipulated. The court held that the survivor income benefit did not constitute a taxable gift and ruled in favor of the estate.

Issue(s)

1. Whether the present value of the survivor income benefit payable by IBM to Joan M. DiMarco constitutes an adjusted taxable gift under section 2001 of the Internal Revenue Code.

Holding

1. No, because DiMarco did not make a taxable gift of the survivor income benefit within the meaning of section 2503 of the Internal Revenue Code. DiMarco's participation in the plan was involuntary, and he lacked the power to transfer any interest in the benefit.

Court's Reasoning

The court applied the legal rule that a transfer of property is a taxable gift only if it is complete, meaning the transferor relinquishes dominion and control over the transferred property. The court found that DiMarco never owned a transferable property interest in the survivor income benefit because his participation was automatic and involuntary, and he had no control over the benefit's terms or beneficiaries. The court cited *Estate of Miller v. Commissioner* to support its conclusion that DiMarco's lack of control meant he could not have made a gift. Additionally, the court rejected the IRS's argument that the transfer became complete upon DiMarco's death, emphasizing that the gift tax statute and regulations do not allow for such a finding. The court also noted IBM's discretion to modify the plan further undermined any claim that DiMarco owned a fixed and enforceable property right in the benefit.

Practical Implications

This decision clarifies that noncontributory, employer-funded benefits, where the employee has no control over the terms or beneficiaries, do not constitute taxable gifts. Legal practitioners should analyze similar cases by focusing on the employee's level of control over the benefit. This ruling may influence how employers structure benefit plans to avoid unintended tax consequences for employees. It also impacts estate planning, as estates can exclude such benefits from adjusted taxable gifts when calculating estate taxes. Subsequent cases, such as *Estate of Schelberg v. Commissioner*, have distinguished this ruling based on the specifics of the benefit plans in question.

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