Petitioner v. Commissioner, T. C. Memo 1987-385

The court must exclude evidence offered untimely and without compliance with pretrial orders, even if it might be relevant for impeachment.

Summary

In a tax case involving a stepped-up basis in realty, the court addressed the admissibility of a malpractice complaint offered by the respondent as impeachment evidence. The complaint was presented after the petitioner had rested and without prior notice, violating the court's pretrial order. The court held that the document could not be used to impeach documentary evidence and was inadmissible due to its untimely presentation. This decision underscores the importance of adhering to pretrial orders and the limitations on using documents as impeachment evidence without proper foundation.

Facts

Petitioner filed a petition in the Tax Court to challenge the disallowance of a stepped-up basis in realty following corporate transactions. During the trial, the respondent attempted to introduce a malpractice complaint filed by the petitioner against their tax advisors in another case. This complaint was first seen by the respondent two days before the trial, but was not offered until after the petitioner's witness, Louise Barkley Braden, had testified and the petitioner had rested. The respondent claimed the complaint was relevant to impeach the petitioner's position and the stipulated documents.

Procedural History

Petitioner filed a petition in the Tax Court on March 25, 1985, and moved to exclude the malpractice complaint after its conditional admission at trial. The respondent argued for its admissibility as impeachment evidence. The court ruled on the admissibility of the document before addressing the substantive issues of the case.

Issue(s)

1. Whether the malpractice complaint can be used to impeach documentary evidence and the petitioner's position in the case.
2. Whether the malpractice complaint was admissible given its untimely presentation.

Holding

1. No, because impeachment requires challenging the veracity of a witness, not inanimate documents, and the complaint did not directly impeach the testimony given.
2. No, because the complaint was offered untimely and in violation of the court's

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pretrial order, causing prejudice to the petitioner.

Court's Reasoning

The court emphasized that impeachment evidence must be directed at a witness's credibility, not documents, stating, "by definition 'impeachment' is: 'To call in question the veracity of a witness, by means of evidence adduced for that purpose, or the adducing of proof that a witness is unworthy of belief. '" The malpractice complaint was not used to impeach the witness, Louise, directly but was instead aimed at the documentary evidence, which is not permissible. Additionally, the court found the respondent's late introduction of the complaint to be prejudicial and in violation of the pretrial order, which required timely exchange of documents. The court highlighted the importance of following procedural rules to prevent surprise and ensure fairness in litigation.

Practical Implications

This decision serves as a reminder to attorneys to comply strictly with pretrial orders and to be aware of the limitations on using documents as impeachment evidence. It impacts how evidence is managed in tax and other litigation, emphasizing the need for timely disclosure and proper foundation for impeachment. Practitioners must ensure that any impeachment evidence is presented during the appropriate phase of the trial and directly relates to witness testimony. The ruling may influence how courts handle similar evidentiary issues in future cases, reinforcing the principle that procedural fairness is paramount in legal proceedings.

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