McDonald v. Commissioner, 89 T. C. 293 (1987)

A disclaimer of a joint tenancy interest must be made within a reasonable time after the creation of the joint tenancy to avoid gift tax; special use valuation requires signatures of all parties with an interest in the property as of the decedent's death.

Summary

Gladys McDonald disclaimed her interest in joint tenancy properties after her husband's death, but the court ruled this was not timely under section 2511 as the transfer occurred at the joint tenancy's creation, thus subjecting her to gift tax. The court also invalidated the estate's attempt to elect special use valuation under section 2032A because the initial estate tax return lacked signatures of all required heirs, and an amended return could not cure this defect. The decision emphasizes strict compliance with tax regulations regarding disclaimers and special use elections.

Facts

Gladys L. McDonald and her deceased husband, John McDonald, held several properties in joint tenancy, all created before 1976. After John's death on January 16, 1981, Gladys executed a disclaimer of her interest in these properties on September 23, 1981. The estate filed an original estate tax return on October 7, 1981, electing special use valuation under section 2032A, but only Gladys and the estate's personal representative signed the election. An amended return filed on February 26, 1982, included signatures of three of John's children and two grandchildren, who received interests due to Gladys's disclaimer.

Procedural History

The Commissioner of Internal Revenue determined a gift tax deficiency against Gladys for her disclaimer and an estate tax deficiency against John's estate for failing to properly elect special use valuation. The Tax Court consolidated the cases, and after full stipulation, rendered a decision in favor of the Commissioner, holding that Gladys's disclaimer was not timely and the special use valuation election was invalid due to missing signatures.

Issue(s)

1. Whether Gladys McDonald's disclaimer of her joint tenancy interest, executed after her husband's death, was timely under section 2511 to avoid gift tax.
2. Whether the Estate of John McDonald validly elected special use valuation under section 2032A despite missing signatures of required heirs on the original estate tax return.

Holding

1. No, because the transfer of the joint tenancy interest occurred upon its creation, not upon John's death, and Gladys's disclaimer was not executed within a reasonable time after the creation of the joint tenancy.
2. No, because the original estate tax return did not contain the signatures of all required heirs as of the decedent's death, and the amended return could not cure this defect.

Court's Reasoning

The court applied section 2511 and Gift Tax Regulations section 25. 2511-1(c), ruling that the transfer of the joint tenancy interest occurred at its creation, not upon the co-tenant's death. Thus, Gladys's disclaimer, executed many years later, was not timely, following the precedent in *Jewett v. Commissioner*. The court rejected the Seventh Circuit's decision in *Kennedy v. Commissioner*, which distinguished joint tenancies from other interests due to the possibility of partition under Illinois law, finding North Dakota law on joint tenancies did not materially differ from the situation in *Jewett*. Regarding the special use valuation, the court held that the election was invalid because the original return lacked signatures of three required heirs, and neither the 1984 nor 1986 amendments to section 2032A permitted the amended return to cure this defect. The court emphasized strict compliance with the statutory requirements for special use valuation, including the need for all parties with an interest in the property to sign the election.

Practical Implications

This decision underscores the importance of timely disclaimers for joint tenancy interests, requiring them to be executed within a reasonable time after the joint tenancy's creation to avoid gift tax. Practitioners must advise clients to consider the tax implications of disclaimers at the outset of joint tenancies. For special use valuation, the case reinforces the necessity of strict compliance with the election requirements, including obtaining signatures from all parties with an interest in the property at the time of the decedent's death. This ruling may affect estate planning strategies, particularly in agricultural estates, prompting practitioners to ensure all necessary signatures are obtained with the initial filing. Subsequent cases have continued to require strict adherence to these rules, with no room for substantial compliance arguments unless explicitly permitted by statutory amendment.

