Estate of Jean Acord, Deceased, Sterling Ernest Norris, Personal Representative, Petitioner v. Commissioner of Internal Revenue, Respondent, 93 T. C. 1 (1989); 1989 U. S. Tax Ct. LEXIS 97; 93 T. C. No. 1

A will's explicit provisions on survivorship can override statutory presumptions regarding the time required for a devisee to survive a testator.

Summary

In Estate of Acord v. Commissioner, the U. S. Tax Court held that Arizona's statutory requirement for a devisee to survive a testator by 120 hours did not apply when the will explicitly dealt with simultaneous deaths and required the devisee to survive the testator. Jean Acord died 38 hours after her husband, Claud, following a common accident. Claud's will provided for Jean to inherit all his property unless she died before or simultaneously with him. The court ruled that Jean's estate must include Claud's share of their community property, as her survival, even for less than 120 hours, satisfied the will's conditions.

Facts

Jean and Claud Acord died in a common automobile accident in Arizona. Claud died first, followed by Jean 38 hours later. They owned community property valued at $779,106. 75 and joint tenancy property worth $22,484. Claud's will devised all his property to Jean unless she died before him, at the same time, or under circumstances making it doubtful who died first. In such cases, his property would pass to other named beneficiaries. Jean's will contained a similar provision.

Procedural History

The Commissioner of Internal Revenue determined a deficiency in Jean's estate tax, asserting that her estate should include Claud's share of their community property. The estate contested this, arguing that Jean did not survive Claud by the 120 hours required by Arizona law. The case was heard by the U. S. Tax Court, which ruled in favor of the Commissioner.

Issue(s)

1. Whether Arizona's statutory requirement for a devisee to survive a testator by 120 hours applies when a will explicitly addresses survivorship and simultaneous deaths?

Holding

1. No, because the will's provisions on survivorship and simultaneous death explicitly override the statutory 120-hour survival presumption.

Court's Reasoning

© 2025 SCOTUSreports.com. All rights reserved.

The court reasoned that Arizona Revised Statutes section 14-2601, which requires a devisee to survive a testator by 120 hours unless the will contains language dealing explicitly with simultaneous deaths, did not apply to Claud's will. The will's provisions were clear: Jean would inherit unless she predeceased Claud or died simultaneously with him. The court emphasized that the statute's language does not require the will's provisions to be contrary to the statute but only to deal explicitly with the subject matter. The court found that Claud's will met this requirement, as it provided for Jean's inheritance contingent on her survival, even if less than 120 hours. The court also noted that Arizona's probate code prioritizes the testator's expressed intention in the will over statutory presumptions. The court rejected the estate's argument that the will's language was consistent with the statute, finding that the will's explicit conditions on survivorship controlled.

Practical Implications

This decision underscores the importance of clear survivorship provisions in wills, especially in states with statutory presumptions like Arizona's 120-hour rule. Attorneys drafting wills should ensure that any survivorship requirements are explicitly stated to avoid unintended application of statutory presumptions. The ruling affects estate planning and tax planning, as it may alter the taxable estate's value when one spouse survives the other by less than the statutory period. This case has been cited in subsequent decisions to support the principle that a will's explicit terms can override statutory presumptions, guiding how courts interpret wills in similar situations.

© 2025 SCOTUSreports.com. All rights reserved.