Estate of Peter A. Gasser, Deceased, Vernice H. Gasser, Executrix, and Vernice H. Gasser v. Commissioner of Internal Revenue, 93 T. C. 236 (1989)

A surviving spouse cannot claim ACRS depreciation on community property placed in service before 1981, despite a basis adjustment upon the death of the other spouse.

Summary

In Estate of Gasser v. Commissioner, the U. S. Tax Court ruled that Vernice Gasser, the surviving spouse, could not claim Accelerated Cost Recovery System (ACRS) depreciation on her half of community property placed in service before 1981. The key issue was whether the property, which was subject to a basis adjustment upon her husband Peter's death in 1982, qualified for ACRS deductions. The court held that since Vernice had a present, equal interest in the property prior to her husband's death, she was considered to have placed it in service before 1981, disqualifying it from ACRS. This case clarifies the interaction between community property laws and tax depreciation rules, emphasizing that pre-existing ownership interests preclude ACRS eligibility despite later basis adjustments.

Facts

Peter and Vernice Gasser owned depreciable community property in California, which they acquired and placed in service during the 1960s and 1970s. They used straight-line depreciation on this property before Peter's death on May 22, 1982. Upon Peter's death, Vernice's undivided 50% community property interest was confirmed to her. For the tax years 1982 and 1983, Vernice claimed ACRS depreciation on the property based on its fair market value as determined for estate tax purposes, resulting in a net operating loss in 1983 which she carried back to 1980.

Procedural History

The case originated with statutory notices of deficiency issued by the Commissioner of Internal Revenue to Vernice and the estate of Peter Gasser for the years 1980, 1982, and 1983. The case was consolidated and heard before the U. S. Tax Court, where the sole issue was the eligibility of ACRS depreciation for Vernice's share of the community property.

Issue(s)

1. Whether Vernice Gasser is entitled to ACRS depreciation deductions for her one-half interest in community property placed in service before 1981, after her husband's death in 1982.

Holding

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1. No, because Vernice had a present, equal interest in the property before her husband's death, thus she was considered to have placed it in service before 1981, making it ineligible for ACRS deductions under section 168(e)(1).

Court's Reasoning

The court's decision hinged on the interpretation of sections 168(e)(1) and 168(e)(4) of the Internal Revenue Code, and the application of California's community property law. Section 168(e)(1) excludes property placed in service before January 1, 1981, from ACRS. The court determined that Vernice, as a co-owner of the community property, had placed it in service before 1981 along with her husband. The court rejected Vernice's argument that she "acquired" the property upon her husband's death, citing California law which established that she had a present interest in the property prior to his death. The court also noted that the exception in section 168(e)(4)(H) did not apply because it pertains to basis determination, not to the issue of when the property was placed in service. The court reconciled sections 168(e)(1) and 168(e)(4) by explaining their different purposes: section 168(e)(1) prevents ACRS deductions for property placed in service before 1981, while section 168(e)(4) addresses anti-churning rules for related parties.

Practical Implications

This decision has significant implications for taxpayers in community property states. It clarifies that ACRS depreciation is not available for community property placed in service before 1981, even if the surviving spouse receives a basis adjustment upon the other spouse's death. Legal practitioners must advise clients in community property states that they cannot benefit from the accelerated depreciation under ACRS for pre-1981 property, despite any changes in basis that may occur due to the death of a spouse. This ruling also underscores the importance of understanding the interplay between state community property laws and federal tax regulations. Subsequent cases involving similar issues have cited Gasser to affirm that a surviving spouse's pre-existing interest in community property precludes ACRS eligibility, reinforcing the need for careful tax planning in estate and property management.

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