Estate of Sally H. Clopton, Deceased, George M. Modlin, Executor v. Commissioner of Internal Revenue, 93 T. C. 275 (1989)

A charitable deduction under section 2055(a) is not allowed if the recipient organization's tax-exempt status was revoked before the distribution, regardless of the donor's lack of knowledge about the revocation.

Summary

Sally Clopton established a trust that distributed funds to the Virginia Education Fund (VEF) upon her death. VEF's tax-exempt status had been revoked before the distribution, but this was not published in the Internal Revenue Bulletin (IRB). The IRS's Cumulative List, which had excluded VEF, was considered sufficient public notice of the revocation. The court denied the estate's claim for a charitable deduction under section 2055(a), ruling that the estate could not rely on VEF's affidavit claiming tax-exempt status. The court emphasized that the estate had constructive notice of VEF's status through the Cumulative List and that the funds were not guaranteed to be used for charitable purposes since they were still held by VEF, a noncharitable entity at the time of distribution.

Facts

Sally Clopton established an inter vivos trust in 1969, modified in 1971, that was to distribute its assets equally among three organizations upon her death, including the Virginia Education Fund (VEF). VEF's tax-exempt status under section 501(c)(3) was revoked by the IRS in 1977, effective retroactively to 1974. This revocation was not published in the Internal Revenue Bulletin (IRB), but VEF was removed from the IRS's 1977 Cumulative List. After Clopton's death in 1978, the trust's assets were distributed, with VEF receiving its share. VEF provided an affidavit claiming it was a tax-exempt organization, but the estate later sought a refund of the estate tax paid, claiming a charitable deduction for the distribution to VEF.

Procedural History

The Commissioner of Internal Revenue issued a notice of deficiency to the estate, denying the charitable deduction for the distribution to VEF. The estate filed a petition with the U. S. Tax Court challenging the deficiency. The Tax Court heard the case and issued its opinion on August 29, 1989.

Issue(s)

1. Whether the estate is entitled to an estate tax deduction under section 2055(a) for a distribution to VEF, which had its tax-exempt status revoked before the distribution but was not listed in the IRB.

2. Whether the estate's lack of personal knowledge of VEF's tax-exempt status revocation affects its entitlement to the deduction.

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Holding

1. No, because the estate had constructive notice of VEF's tax-exempt status revocation through its deletion from the 1977 Cumulative List, which is considered sufficient public notice.

2. No, because the estate's lack of personal knowledge does not override the public notice provided by the Cumulative List, and the funds were distributed to a noncharitable entity at the time of distribution.

Court's Reasoning

The court applied section 2055(a), which allows a deduction for bequests to charitable organizations. The court found that VEF was not a charitable organization at the time of the distribution, as its tax-exempt status had been revoked. The court relied on Revenue Procedure 72-39, which states that contributions to organizations listed in the Cumulative List are deductible until the IRS publishes a revocation in the IRB or updates the Cumulative List. Since VEF was deleted from the 1977 Cumulative List, the court held that this provided sufficient public notice of the revocation. The court rejected the estate's argument that it could rely on VEF's affidavit, stating that the estate had constructive notice of VEF's status. The court also found that the possibility of the funds being used for charitable purposes was "so remote as to be negligible," as the funds were still in the possession of VEF, a noncharitable entity. The court cited cases defining "so remote as to be negligible" and emphasized that the estate tax provisions do not allow deductions for bequests that may never reach a charity.

Practical Implications

This decision clarifies that estates and donors must rely on the IRS's Cumulative List to determine an organization's tax-exempt status for charitable deductions. It emphasizes the importance of due diligence in verifying the tax-exempt status of donee organizations, as personal knowledge or affidavits from the organization do not override public notice provided by the IRS. The decision also impacts estate planning, as it underscores the risk of making bequests to organizations whose tax-exempt status may change. Practitioners should advise clients to monitor the tax-exempt status of potential donees and consider including contingency provisions in estate planning documents to redirect bequests if an organization loses its tax-exempt status. This case has been cited in subsequent cases dealing with charitable deductions and the reliance on IRS publications for determining tax-exempt status.

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