Estate of Marks v. Commissioner, 97 T. C. 637 (1991)

In simultaneous death cases, life insurance proceeds are not includable in the insured's estate if the policy is the separate property of the noninsured spouse, and a usufruct created by presumption of survivorship has no value for tax credit purposes.

Summary

In Estate of Marks, the Tax Court addressed the estate tax implications for two spouses who died simultaneously in an airplane crash. The court ruled that life insurance proceeds should not be included in the insured's estate when the policies were the separate property of the noninsured spouse under Louisiana law. Additionally, the court held that a usufruct created by the presumption of survivorship had no value for the purpose of a tax credit under section 2013, as it was deemed to have no practical value due to the immediate termination upon the simultaneous deaths. This decision clarifies the treatment of life insurance policies and usufructs in simultaneous death scenarios under estate tax law.

Facts

Everard W. Marks, Jr. , and Mary A. Gengo Marks died simultaneously in an airplane crash in 1982. Each had taken out life insurance on the other, with the noninsured spouse as the owner and beneficiary. The policies were funded with community property but were treated as separate property. Louisiana law presumed Everard survived Mary, granting him a usufruct over her share of community property. The IRS asserted deficiencies in estate taxes, arguing that the insurance proceeds should be included in each estate and that Everard's estate was not entitled to a tax credit for the usufruct.

Procedural History

The IRS issued notices of deficiency for both estates, asserting increased deficiencies. The estates contested these in Tax Court, where the parties agreed on the value of mineral rights but disagreed on the treatment of life insurance proceeds and the tax credit for the usufruct. The Tax Court consolidated the cases and ruled on the unresolved issues.

Issue(s)

1. Whether the proceeds of life insurance policies, owned by one spouse on the life of the other, are includable in each spouse's gross estate under sections 2042(2), 2038, or 2035.
2. Whether Everard's estate is entitled to a credit for tax on prior transfers under section 2013 for the usufruct over Mary's share of community property.

Holding

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1. No, because under Louisiana law, the policies were the separate property of the noninsured spouse, and neither insured spouse possessed incidents of ownership, making the proceeds non-includable under section 2042(2).
2. No, because the usufruct created by the presumption of survivorship had no value for tax credit purposes due to the simultaneous deaths.

Court's Reasoning

The court applied Louisiana law to determine that the life insurance policies were separate property of the noninsured spouse, following precedents like Catalano v. Commissioner. The court reasoned that since the noninsured spouse had control over the policy, the insured did not possess incidents of ownership, thus excluding the proceeds from the insured's estate under section 2042(2). For the usufruct, the court rejected the use of actuarial tables for valuation, citing Estate of Lion v. Commissioner, which held that in simultaneous death cases, the usufruct's value should reflect the reality of its immediate termination. The court emphasized that a usufruct with no practical enjoyment cannot be valued for tax credit purposes.

Practical Implications

This decision impacts estate planning in community property states, particularly in cases of simultaneous death. Attorneys should ensure that life insurance policies are clearly designated as separate property to avoid inclusion in the insured's estate. For usufructs created by survivorship presumptions, this ruling indicates that such interests may not be valuable for tax credit purposes if the beneficiary dies immediately. Practitioners must consider these factors when advising clients on estate tax strategies. Subsequent cases like Estate of Carter have addressed similar issues, with varying interpretations of usufruct valuation, highlighting the need for clear guidance in this area.

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