Estate of Samuel I. Levitt, Deceased, Helen S. Levitt, Administrator, Petitioner v. Commissioner of Internal Revenue, Respondent, 95 T. C. 289 (1990); 1990 U. S. Tax Ct. LEXIS 87; 95 T. C. No. 22

A trust's formula clause does not preclude an unlimited marital deduction if it does not expressly provide that the spouse is to receive the maximum marital deduction amount.

Summary

In Estate of Levitt v. Commissioner, the U. S. Tax Court addressed whether a pre-ERTA trust's formula clause precluded an unlimited marital deduction under post-ERTA law. The trust, established and amended before the Economic Recovery Tax Act of 1981 (ERTA), included a formula that initially set the marital deduction amount to the maximum allowable but reduced it to utilize the unified credit fully. The court held that this formula did not fall under ERTA's transitional rule, which limited the marital deduction to pre-ERTA levels for certain pre-existing formulas. The decision was based on the trust's language not expressly providing for the maximum marital deduction, thus allowing the estate to claim an unlimited deduction.

Facts

Samuel I. Levitt created a revocable trust on June 12, 1975, and amended it on March 6, 1978. The amended trust provided for the division of the trust estate into Trust A and Trust B upon his death, with Trust A intended to benefit his surviving spouse, Helen S. Levitt. The formula for Trust A stated it would receive the maximum marital deduction amount reduced by other qualifying property and further reduced to fully utilize the unified credit. Levitt died intestate on May 13, 1985, after ERTA's enactment, which introduced an unlimited marital deduction but included a transitional rule limiting pre-existing formulas to pre-ERTA levels.

Procedural History

The estate filed a federal estate tax return claiming an unlimited marital deduction under the post-ERTA law. The Commissioner of Internal Revenue issued a notice of deficiency, asserting that the trust's formula clause fell under ERTA's transitional rule, limiting the deduction to pre-ERTA levels. The estate petitioned the U. S. Tax Court for a redetermination of the deficiency.

Issue(s)

1. Whether the trust's formula clause falls under the transitional rule of section 403(e)(3) of ERTA, thereby limiting the estate's marital deduction to pre-ERTA levels?

Holding

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1. No, because the trust's formula does not expressly provide that the spouse is to receive the maximum amount of property qualifying for the marital deduction allowable by federal law. The formula's reduction to utilize the unified credit distinguishes it from the type of formula contemplated by the transitional rule.

Court's Reasoning

The court's reasoning focused on the interpretation of the trust's formula clause. It emphasized that for the transitional rule to apply, the trust must contain a formula that expressly provides for the surviving spouse to receive the maximum marital deduction amount. The Levitt trust's formula initially mentioned the maximum marital deduction but then reduced it to ensure full use of the unified credit. This reduction meant the trust did not meet the literal terms of the transitional rule. The court overruled its prior decision in Estate of Blair v. Commissioner, which had incorrectly applied the rule to a similar formula. The court also noted that the trust's overall scheme showed a primary intent to benefit the surviving spouse, reinforcing the conclusion that the transitional rule should not apply.

Practical Implications

This decision clarifies that for pre-ERTA trusts, the presence of a formula that reduces the marital deduction to utilize credits fully does not fall under the transitional rule's limitation. Estate planners must carefully draft trust formulas to ensure they reflect the testator's intent, particularly regarding the use of the marital deduction and unified credit. The ruling underscores the importance of the precise language used in trusts and wills and its impact on estate tax deductions. Subsequent cases have applied this ruling to distinguish between formulas that merely mention the maximum marital deduction and those that expressly provide for it. This case serves as a precedent for interpreting similar trust provisions and the application of transitional rules in tax legislation.

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