Therese Hahn v. Commissioner of Internal Revenue, 110 T. C. No. 14 (1998)

The 1981 amendment to the definition of "qualified joint interest" did not repeal the effective date of the 50-percent inclusion rule, which does not apply to spousal joint interests created before January 1, 1977.

Summary

Therese Hahn sought a full step-up in basis for property she inherited from her husband, acquired in 1972 as joint tenants. The IRS argued for a 50-percent step-up, citing the 1981 amendment to section 2040(b)(2). The Tax Court ruled that the amendment did not repeal the effective date of the 50-percent inclusion rule, which only applies to interests created after December 31, 1976. Therefore, Hahn's property, created before 1977, was not subject to the 50-percent rule, and she could claim a full step-up in basis under the contribution rule.

Facts

In 1972, Therese Hahn and her husband purchased property as joint tenants with right of survivorship. Upon her husband's death in 1991, Hahn became the sole owner. The estate tax return included 100 percent of the property's value in the husband's estate, and Hahn claimed a full step-up in basis when selling the property in 1993. The IRS argued for a 50-percent step-up, asserting that the 1981 amendment to section 2040(b)(2) applied to estates of decedents dying after 1981, including Hahn's.

Procedural History

Hahn filed a motion for summary judgment, and the IRS filed a cross-motion for partial summary judgment. The Tax Court denied both motions, holding that the 1981 amendment did not repeal the effective date of the 50-percent inclusion rule, which therefore did not apply to Hahn's pre-1977 joint interest.

Issue(s)

1. Whether the 1981 amendment to the definition of "qualified joint interest" in section 2040(b)(2) expressly or impliedly repealed the effective date of the 50-percent inclusion rule in section 2040(b)(1).

Holding

1. No, because the 1981 amendment did not expressly or impliedly repeal the effective date of the 50-percent inclusion rule, which therefore does not apply to spousal joint interests created before January 1, 1977.

Court's Reasoning

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The court analyzed whether the 1981 amendment to section 2040(b)(2) repealed the effective date of section 2040(b)(1). It concluded that there was no express repeal because the amendment did not mention the effective date of the 1976 amendment. The court also found no implied repeal, as the two statutes were not in irreconcilable conflict and the later act did not cover the whole subject of the earlier one. The court emphasized that the 1981 amendment only redefined "qualified joint interest" without changing the operational rule of section 2040(b)(1). The court's decision was supported by prior case law, including Gallenstein v. United States, which reached the same conclusion.

Practical Implications

This decision clarifies that the 50-percent inclusion rule for jointly owned property does not apply to interests created before January 1, 1977, even if the decedent died after 1981. Attorneys should consider the creation date of joint interests when advising clients on estate planning and tax basis. This ruling impacts how estates are valued and how surviving spouses calculate their basis in inherited property, potentially affecting tax liabilities. It also underscores the importance of legislative effective dates and the principle that repeals by implication are disfavored.

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