Estate of Silver v. Commissioner of Internal Revenue, 120 T. C. 430 (U. S. Tax Court 2003)

In Estate of Silver v. Comm'r, the U. S. Tax Court ruled that a nonresident alien's estate could not claim a full charitable deduction for bequests to Canadian charities under the U. S. -Canada tax treaty. The court determined that the bequests, funded solely from assets outside the U. S. , did not qualify for the deduction because they were not subject to U. S. estate tax. This decision clarifies the limitations of charitable deductions for nonresident estates and the application of international tax treaties.

Parties

The petitioner was the Estate of Avrom A. Silver, represented by executors Bonny Fern Silver, Kenneth Kirsh, and Ronald Faust. The respondent was the Commissioner of Internal Revenue.

Facts

Avrom A. Silver, a Canadian citizen and resident, died on October 26, 1997. His will included charitable bequests of $312,840 to Canadian-registered charities, which were organizations described in paragraph 1 of Article XXI of the U. S. -Canada tax treaty. These bequests were paid solely out of funds and property located outside the United States. Silver's U. S. gross estate consisted of 252,775 shares of Neuromedical Systems, Inc. , valued at $516,268 on the alternate valuation date. The value of Silver's gross estate outside the United States exceeded $100 million.

Procedural History

The estate filed a Form 706NA, claiming a charitable contribution deduction of $312,840. The Commissioner issued a notice of deficiency, allowing a charitable deduction of only $1,615, calculated as the proportionate part of the U. S. assets that passed to the charitable legatees. The estate petitioned the U. S. Tax Court for a redetermination of the deficiency. The case was submitted fully stipulated under Rule 122 of the Tax Court Rules of Practice and Procedure.

Issue(s)

Whether the estate of a nonresident alien is entitled to a charitable contribution deduction under Article XXIX B of the U. S. -Canada tax treaty, as amended by the 1995 Protocol, for bequests to Canadian-registered charities when the bequests are funded solely from assets not subject to U. S. estate tax?

Rule(s) of Law

Section 2106(a)(2)(A)(ii) of the Internal Revenue Code allows a deduction from the value of a nonresident alien's taxable estate for bequests to a domestic corporation

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organized and operated for charitable purposes, limited to transfers to corporations and associations created or organized in the United States. The 1995 Protocol to the U. S. -Canada tax treaty added Article XXIX B, paragraph 1, which provides that a bequest to an organization described in Article XXI should be treated as if the organization were a resident of the country imposing the tax, provided the property is subject to that country's estate tax.

Holding

The U. S. Tax Court held that the estate was not entitled to a charitable deduction larger than that determined by the Commissioner because the bequests were funded solely from assets not subject to U. S. estate tax, as required by the 1995 Protocol to the U. S. -Canada tax treaty.

Reasoning

The court's reasoning focused on the interpretation of Article XXIX B of the U. S. -Canada tax treaty, as amended by the 1995 Protocol. The court emphasized that treaties should be interpreted to give effect to the genuine shared expectations of the contracting parties and should be liberally construed to fulfill their purpose. The court noted that the technical explanation accompanying the 1995 Protocol and the Senate report from the Committee on Foreign Relations clarified that the deduction under Article XXIX B is allowed only if the property constituting the bequest is subject to U. S. estate tax. Since the bequests in this case were paid solely out of funds and property located outside the United States, they were not subject to U. S. estate tax and thus did not qualify for the deduction. The court concluded that the treaty, as amended, did not override Section 2106 of the Internal Revenue Code in this instance.

Disposition

The court entered a decision for the respondent, sustaining the Commissioner's determination of the charitable deduction.

Significance/Impact

The decision in Estate of Silver v. Comm'r is significant for its clarification of the application of the U. S. -Canada tax treaty to charitable deductions for nonresident estates. It underscores the requirement that property funding a bequest must be subject to U. S. estate tax to qualify for a deduction under the treaty. This ruling has implications for estate planning involving international assets and charitable giving, particularly for nonresident aliens with U. S. property. It also serves as a reminder of the importance of treaty interpretation and the role of technical explanations and legislative history in understanding the intent and application of tax treaties.

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