Estate of Eleanor R. Gerson, Deceased, Allan D. Kleinman, Executor v. Commissioner of Internal Revenue, 127 T. C. 139 (2006) (United States Tax Court)

In Estate of Gerson, the U. S. Tax Court upheld the validity of a Treasury regulation that excluded certain transfers from the grandfather exception of the generation-skipping transfer (GST) tax. The case involved a transfer to grandchildren via the exercise of a general power of appointment under a trust established before 1985. The ruling clarified that such transfers do not qualify for the exception, impacting estate planning strategies and reinforcing uniform application of transfer taxes.

Parties

The petitioner was the Estate of Eleanor R. Gerson, represented by Allan D. Kleinman as executor. The respondent was the Commissioner of Internal Revenue. At the trial level, the case was heard in the United States Tax Court. On appeal, it would be heard in the Court of Appeals for the Sixth Circuit.

Facts

Eleanor R. Gerson was married to Benjamin S. Gerson, who established an irrevocable trust in 1968, which became irrevocable upon his death in 1973. The trust included a marital trust (Trust A) for Eleanor, granting her a general power of appointment over the trust's assets. Eleanor died in 2000 and exercised her power of appointment in her will, directing the trust's assets to her grandchildren. The Commissioner determined that this transfer was subject to GST tax, asserting that it did not qualify for the grandfather exception under the Tax Reform Act of 1986 (TRA 1986).

Procedural History

The Commissioner issued a notice of deficiency to the Estate of Eleanor R. Gerson, determining a GST tax deficiency. The estate filed a petition for redetermination with the United States Tax Court. The court reviewed the case fully stipulated under Rule 122 of the Tax Court Rules of Practice and Procedure. The central issue was the validity of Treasury Regulation section 26. 2601-1(b)(1)(i), which was amended in 2000 to exclude transfers pursuant to the exercise, release, or lapse of a general power of appointment from the grandfather exception.

Issue(s)

Whether section 26. 2601-1(b)(1)(i) of the GST Tax Regulations, which excludes transfers pursuant to the exercise, release, or lapse of a general power of appointment from the grandfather exception under section 1433(b)(2)(A) of the Tax Reform Act of 1986, is a valid interpretation of the statute?

Rule(s) of Law

© 2025 SCOTUSreports.com. All rights reserved.

The applicable rule is section 1433(b)(2)(A) of the Tax Reform Act of 1986, which provides that the GST tax does not apply to “any generation-skipping transfer under a trust which was irrevocable on September 25, 1985, but only to the extent that such transfer is not made out of corpus added to the trust after September 25, 1985. ” The Treasury Regulation at issue, section 26. 2601-1(b)(1)(i), interprets this provision to exclude transfers made under a general power of appointment if treated as taxable under federal estate or gift tax.

Holding

The Tax Court held that section 26. 2601-1(b)(1)(i) of the GST Tax Regulations is a valid and reasonable interpretation of section 1433(b)(2)(A) of the Tax Reform Act of 1986. Therefore, the transfer from Eleanor R. Gerson’s trust to her grandchildren was subject to GST tax.

Reasoning

The court reasoned that the regulation harmonizes with the plain language, origin, and purpose of the statute. It noted that the statute does not define “transfer under a trust,” leading to differing interpretations by courts. The regulation’s interpretation aligns with the legislative intent to protect reliance interests of trust settlors who made arrangements before the introduction of the GST tax regime. The court emphasized the uniformity and consistency of treating general powers of appointment as equivalent to outright ownership for all federal transfer taxes, including GST tax. The majority opinion also distinguished prior cases like Simpson and Bachler, which interpreted the statute more broadly, asserting that the regulation provides a clearer and more consistent approach.

Concurring opinions supported the majority’s reasoning, emphasizing the regulation’s consistency with prior judicial interpretations and its alignment with congressional intent to ensure uniform application of transfer taxes. Dissenting opinions argued that the regulation conflicted with the plain meaning of the statute, advocating for the application of the statute as written without the need for regulatory interpretation.

Disposition

The Tax Court entered a decision for the respondent, affirming the Commissioner’s determination that the transfer to Eleanor R. Gerson’s grandchildren was subject to GST tax.

Significance/Impact

Estate of Gerson significantly clarifies the scope of the grandfather exception under the GST tax. By upholding the regulation, the court reinforced the uniform application of transfer taxes to general powers of appointment, affecting estate planning strategies that rely on such powers. The decision has implications for

© 2025 SCOTUSreports.com. All rights reserved.

future interpretations of tax regulations and the deference courts give to Treasury interpretations of ambiguous statutes. It also highlights the ongoing tension between judicial interpretations of statutory language and agency regulations, particularly in the context of tax law.

© 2025 SCOTUSreports.com. All rights reserved.