OPINION NO. 1122

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

TAX DIVISION

FILED

NOV 5 1975

Superior Court of the
District of Columbia
Tax Division

EDWIN L. STOHLMAN, JR., THOMAS J. STOHLMAN, RICHARD H. STOHLMAN, Petitioners	)	
v.	)	Docket No. 2302
DISTRICT OF COLUMBIA, Respondent	)	

OPINION AND ORDER

This case comes before the Court on the petitioners' appeal from an estate tax assessment. The decedent, Edwin L. Stohlman, died on December 7, 1972, and the petitioners are the residuary beneficiaries under his Last Will and Testament. This Court has jurisdiction of the appeal pursuant to D. C. Code 1973, §47-2403.

I

The facts in this case have been fully stipulated by the parties and are as follows:[1/]

1. The petitioners are individuals with residences as follows, and are residuary beneficiaries under the Last Will and Testament of Edwin L. Stohlman, who died December 7, 1972, a domiciliary of Chevy Chase, Maryland. Under the terms of the Will, which was admitted to probate in the Circuit Court

---

1/ The parties entered into both oral and written stipulations.

for Montgomery County on January 24, 1973, petitioners are liable for all inheritance and estate taxes.

> FOURTH: "I direct that there shall be paid and charged to the residue of my estate all estate, transfer, inheritance, legacy and succession taxes, or any taxes similar thereto, on or in respect to any property upon which this Will shall operate, or any legacy, devise, or bequest given hereby, or on or in respect to any transfer of property made by me apart from this Will."

Edwin L. Stohlman, Jr.
3719 Cardiff Road
Chevy Chase, Maryland 20015

Richard H. Stohlman
5940 Searl Terrace
Springfield, Maryland 20016

Thomas J. Stohlman
3027 University Terrace, N.W.
Washington, D. C. 20016

2. The tax in controversy is a District of Columbia estate tax assessed by virtue of certain District of Columbia realty which is part of the residuary estate of Edwin L. Stohlman, Sr., said tax being in the amount of $5,452.31, plus interest in the amount of $134.81.

3. The notice of assessment was dated September 26, 1974. Tax of $5,393.36, plus interest of $134.81, was paid by Edwin L. Stohlman, Jr., as the Personal Representative of said Estate, on October 30, 1974, and an additional tax of $58.95 was paid by the said Personal Representative on November 21, 1974 following an increase in the federal estate tax assessed by the Internal Revenue Service. A claim for refund was filed December 5, 1974. A disallowance of said claim was received by the petitioner on December 24, 1974.

4. Decedent had a gross estate for federal estate tax purposes of $2,650,414.

5. The maximum credit for State death taxes on said Estate after the final determination of the federal estate tax liability was $65,421.

6. Approximately 15% of decedent's gross estate, to wit, real property valued at $382,000, was taxable in the District of Columbia.

7. Inheritance taxes in the amount of $16,350 on said property were paid to the District of Columbia on September 18, 1974. This sum amounted to approximately 25% of the total credit for State death taxes.

8. The purpose of D. C. Code 1973, §47-1612 is to assure that the District of Columbia receive its full proportionate share of the credit for state death taxes allowed under the Internal Revenue Code of 1954, §2011 (26 U.S.C. 2011).

9. On April 28, 1975, petitioners filed this action in the Superior Court of the District of Columbia, Tax Division, petitioning the Court to direct the D. C. Treasurer to refund estate tax and interest, totaling $5,587.12 to petitioners.

10. Eighty percent of the decedent's gross estate was taxable in the State of Maryland resulting in a federal tax credit of $55,607 being allocated to that State. The Maryland inheritance tax was $11,387.46 and the Maryland estate tax was $44,217.51.

II

A federal estate tax was imposed on the transfer of the taxable estate of the decedent. Internal Revenue Code of 1954, §2001 (26 U.S.C. 2001). Under the Code[2/] the taxpayer is entitled to a federal estate tax credit for state death taxes. The credit is for any "estate, inheritance, legacy or succession taxes actually paid to any State or Territory or the District of Columbia" and the amount of the credit is determined by the size or value of the taxable estate. Internal Revenue Code of 1954, §2011 (26 U.S.C. §2011).

As has already been found, the maximum federal credit for state death taxes in the instant case was $65,421. Since 85% of the taxable estate was located in Maryland, it meant that 85% of the federal credit or $55,607 was allocated to that state. The remaining 15% was allocated to the District of Columbia.

Under Maryland law there are two "death" taxes which are pertinent in this case. One tax is an inheritance tax which is calculated under a formula in the statute. Md. Ann. Code, Article 81, Section 149 et seq. The other tax is an estate tax which is primarily designed to give the state the full benefit of the federal credit. Md. Ann. Code, Article 62, Section 2. The latter tax amounts to the difference between the state inheritance tax and the state's share of the federal

---

2/ Refers to the Internal Revenue Code of 1954.

credit - here it was simply computed by taking Maryland's share of federal credit in the amount of $55,607 and subtracting the Maryland inheritance tax of $11,389.46 leaving a Maryland estate tax of $44,217.51.

The petitioners argue that the District of Columbia estate tax, like its Maryland counterpart, is designed solely to assure that the District receives the full benefit of the federal credit; in short, to pick up the difference between the District inheritance tax and its share of the federal credit. Since the District's share of the federal credit amounts to 15% or a little less than $10,000, and its inheritance tax, in the amount of $16,300 exceeded that amount, the petitioners contend that the District has received the full benefit of the federal credit and that no estate tax is now due.[3/]

The respondent argues on the other hand that the District tax is not simply a "pick up" tax similar to that in Maryland and that the tax is determined by subtracting the inheritance taxes paid in both Maryland and the District, and then multipying that figure by 15% which represents the District's share of the federal credit.

This appears to be the first time this precise issue has

3/ Of course, the petitioners recognize that even if their argument is accepted, it would not decrease the amount of the District's inheritance tax since it, like the Maryland inheritance tax, is calculated based on a formula set forth in the statute. See D. C. Code 1973, §47-1601.

been presented to any court for a decision. In District of Columbia v. Safe Deposit & Trust Co., 72 App. D.C. 197, 116 F.2d 21 (1940), cited by both sides, the District argued that the estate tax was entirely separate and distinct from the inheritance tax and that in computing the tax the District need not deduct the amount of inheritance tax paid to the District. The court rejected that argument but did not directly address itself to the issue now before this Court. In LaBrot Estate v. District of Columbia, D.C. BTA Docket 1292, decided June 9, 1952, a case relied upon by the District, the Board ruled that in computing the amount of the tax, the assessor should use the gross estate and not the net estate. Thereafter, in determining the tax, the Board used the same formula the District seeks to have this Court apply, however, it appears that the method of computation of the tax was not at issue and was not argued by the parties.

III

The District estate tax for nonresidents is determined pursuant to D. C. Code 1973, §47-1612, which provides:

> A tax is hereby imposed upon the transfer of real property or tangible personal property in the District of every person who at the time of death was a resident of the United States but not a resident of the District, and upon the transfer of all property, both real and personal, within the District of every person who at the time of death was not a resident of the United States, the amount of which shall be a sum equal to such proportion of the amount by which the credit allowable under the applicable Federal Revenue Act for estate, inheritance, legacy, and succession taxes actually

> paid to the several States exceeds the amount actually so paid for such taxes, exclusive of estate taxes based upon the difference between such credit and other estate taxes and inheritance, legacy, and succession taxes, as the value of the property in the District bears to the value of the entire estate, subject to estate tax under the applicable Federal Revenue Act.

The Court concludes that the respondent's argument is supported by the plain language of the above statute. The statute provides that the amount of the tax "shall be a sum equal to such proportion of the tax by which the credit allowable under the applicable Federal Revenue Act for estate, inheritance, legacy and succession taxes actually paid to the several States exceeds the amount actually so paid for such taxes". This language merely provides that in determining the estate tax, the assessor or taxpayer must first subtract the inheritance taxes paid to the several States, here Maryland and the District, from the federal credit. The resulting figure represents the first factor to be applied in a formula for determining the District estate tax.

While, up to this point, one might argue that the state taxes referred to above would include the estate tax as well as the inheritance tax, such an argument is immediately put to rest by the next part of the statute. There, Congress recognized that the term "estate tax" as used in the phrase "estate, inheritance, legacy, and succession taxes", could be misinterpreted to mean the type of estate tax utilized by the State of Maryland as a "pick up" tax in order to obtain the full benefit of the federal credit. It is noted that the same

language referring to "estate, inheritance, legacy and succession taxes" is found in Section 2011 of the Internal Revenue Code. In order to avoid such a construction, Congress expressly excluded the pick up type of estate tax by providing that the above computation is "exclusive of estate taxes based upon the difference between such credit [Federal credit] and other estate taxes and inheritance, legacy, and succession taxes [Maryland inheritance taxes]". (Matter in brackets this Court's.) It is clear then that Congress deliberately excluded the Maryland type "pick up" tax as a factor to be used in computing the District estate tax.

The last portion of Section 1612 merely provides the method for determining the second factor; simply, that the factor is the same as the ratio that the District taxable estate bears to the total taxable estate. Here, of course, that factor is 15%.

Applying the statute to the instant case, it merely means that in order to compute the tax, the assessor or taxpayer must subtract the total inheritance taxes paid to the several states, including the District, from the federal credit and multiply the resulting figure by the District's percentage of the taxable estate. The result is the District estate tax due on the property.

The petitioners argue that it was the intention of Congress to assure only that the District receive its fair share of the federal estate tax credit and no more. They seek to support that contention by referring the court to the legislative

history of Section 1612. Suffice it to say, that, as has hopefully been demonstrated, the statute is clear and unambiguous on its face and does not establish a mere "pick up tax". Under these circumstances, there is no need for this Court to turn to the legislative history in order to interpret the statute. Sea-Land Service, Inc. v. Federal Maritime Commission, 131 U.S. App. D.C. 246, 404 F.2d 824 (1968); District of Columbia National Bank v. District of Columbia, 121 U.S. App. D.C. 196, 348 F.2d 808 (1965); General Motors Acceptance Corp. v. One 1962 Cheverlot Sedan, 191 A.2d 140 (D.C. App. 1963). Moreover, petitioners' argument based on the legislative history would not result in a different holding.

In view of the holding that the respondent applied the correct formula in determining the estate tax, it follows that this case must now be dismissed with prejudice.

SO ORDERED.

Dated: November 6, 1975

JOHN GARRETT PENN
Judge

Copies to:

George H. Beuchert, Jr., Esq.
Counsel for Petitioners
800 Union Trust Building
Washington, D. C. 20005

Richard G. Amato, Esq.
Assistant Corporation Counsel
District Building
Washington, D. C. 20004

Copies mailed postage prepaid to parties addressed above on Jul 5, 1975.

Joan Sessions

SERVED:

Finance & Revenue, D. C.

Mae H. Thomas
Chief Deputy Clerk
Tax Division