

RICHARD REEVES TAYLOR, *
PERSONAL REPRESENTATIVE OF THE
ESTATE OF MARGARET BEALE TAYLOR *

vs.

COMPTROLLER OF THE TREASURY *

IN THE

MARYLAND TAX COURT

No. 14-EI-OO-0691

MEMORANDUM AND ORDER

This case concerns the assessment by the Respondent, the Comptroller of Maryland of a Maryland estate tax deficiency against the Petitioner, Estate of Margaret Beale Taylor in the total amount, including tax, interest and penalties, of \$448,294.56.

At the time of her death, on January 15, 2013 in Washington County, Maryland, Mrs. Taylor was possessed of a federal gross estate-consisting entirely of personal property-valued at \$5,582,245. The personal representative of Mrs. Taylor's estate, Richard Reeves Taylor, filed a United States Estate Tax Return with the Internal Revenue Service, and a Maryland Estate Tax Return with the Comptroller. On the Estate's federal return, the personal representative included Mrs. Taylor's interest in a marital trust created by the last will and testament of her predeceased husband, John Wilson Taylor. Mr. Taylor died testate in 1989 as a Michigan resident. On the Estate's Maryland return, the personal representative excluded the value of the very same marital trust, decreasing the reported value of Mrs. Taylor's federal gross estate by \$4,108,048.02. The Comptroller disallowed the claimed exclusion of Mrs. Taylor's interest in the marital trust, adding back the value of the marital trust to the federal gross estate and the resulting Maryland estate. The disallowance of the marital trust exclusion resulted in an increase of the Estate's Maryland estate tax liability from \$22,622 to \$429,372.32 with interest. The Comptroller waived

substantial valuation understatement penalty.

Petitioner asserts that neither Mr. Taylor nor his estate ever had any connection with the State of Maryland. Mr. Taylor's estate filed a Federal Estate and Generation Skipping Tax Return in which, on Schedule M, the estate elected a marital deduction QTIP under I.R.C. §2056(b)(7) in the amount of \$2,302,393.20. No tax which otherwise would have been due to the State of Maryland at the death of Mr. Taylor was deferred by Mr. Taylor's election of the QTIP marital deduction. Mrs. Taylor continued to reside in Michigan until 1993, when she moved to Williamsport in Washington County, Maryland. Mrs. Taylor remained a resident of Washington County until her death on January 15, 2013.

On October 15, 2013, Petitioner timely filed a Maryland Estate Tax Return with the Comptroller. The Maryland return identified on line 1 the federal total gross estate (federal Form 706, line 1) as being \$1,402,197.00 although the federal estate tax return identified a total gross estate of \$5,582,245. Because of this discrepancy, Petitioner attached a statement to the Maryland Estate Tax Return explaining how the tax was computed on the Maryland Return. The attachment was titled "Attachment to Maryland Estate Tax Return Section IV Computation of Maryland Estate Tax" and stated:

In reliance on Section 7-309(b)(6)(i) of the Maryland Tax-General Code Annotated, the marital trust created under the Last Will and Testament of decedent's deceased spouse, John Wilson Taylor, in which decedent had an income interest for life and which is reported on Schedule F of the decedent's Federal Estate Tax Return, Form 706, has been excluded from the federal gross estate (line 1, Federal Form 706) reported on line 1 of Section IV of the MET-1. John Wilson Taylor died on December 1, 1989, and was a resident of the State of Michigan on the date of his death. No Maryland estate tax return was filed for Mr. Taylor, and thus no "marital deduction qualified terminable

interest property election was made for the decedent's predeceased spouse on a timely filed Maryland estate tax return."

The Petitioner relies on Tax-General § 7-309(b)(6)(i) which provides:

For purposes of calculating Maryland estate tax, a decedent shall be determined to have had a qualifying income interest for life under §2044(a) of the Internal Revenue Code with regard to any property *for which a marital deduction qualified terminable interest property election was made for the decedent's predeceased spouse on a timely filed Maryland estate tax return* under paragraph (5) of this subsection.

Petitioner contends that line 1 of the Maryland Return did not include the value of the assets of the QTIP trust ("a qualifying income interest for life") in the federal gross estate amount because Mrs. Taylor's husband's estate did not make the QTIP election on a "Maryland estate tax return." The election was made on a federal estate tax return by the Michigan estate of a deceased Michigan resident who had no connection with the State of Maryland and for which no Maryland estate tax return was filed. Therefore, "for the purposes of calculating Maryland estate tax," the amount was not included.

The position of the Comptroller is that Mrs. Taylor's Maryland estate included the same property as her federal gross estate, including particularly the assets contained in the marital trust created under her husband's will, and that the value of her gross estate was \$5,582,245. There is no dispute about the composition or value of her federal gross estate, as reported on the Estate's federal return. The value of a decedent's federal gross estate includes the value of property described in §§2033 through 2044 of the Internal Revenue Code. 26 C.F.R. § 20.2031-1(a); *Estate of Mellinger v. Comptroller*, 112 T.C. 26, 32 (1999). It generally includes "the value of all property to the extents of the interest therein of the

decedent at the time of [her] death.” 26 U.S.C. § 2033; *Maryland Nat’l Bank v. United States*, 236 F. Supp. 532, 534 (D. Md. 1964). “[A]ll property” means both real and personal property, whether tangible or intangible, wherever situated, that is beneficially owned by the decedent on the date of her death. 26 C.F.R. § 20.2033-1(a). Specifically included in Mrs. Taylor’s federal gross estate in the value of property in which Mrs. Taylor had a qualified income interest for life and for which a marital deduction was allowed to the estate of her predeceased spouse under 26 U.S.C. § 2056(b)(7)- referred to as “QTIP property.” At the death of the second spouse, QTIP property is “treated as property passing from the decedent,” and taxed as part of the second spouse’s estate. 26 U.S.C. § 2044(c); 26 C.F.R. §20.2044-1(a); *Estate of Mellinger*, 112 T.C. at 32.

Petitioner’s claim that Md. Code Ann., Tax-General § 7-309(b)(6) (2010 Repl. Vol.) *prohibits* the Comptroller from assessing an estate tax deficiency on the transfer of QTIP property contained in the Estate of Margaret Reeves Taylor is without merit. The Court agrees with the Comptroller that the Maryland estate tax is directly linked to the federal estate tax, and completely integrated with it. This linkage and integration is accomplished by adopting, at the outset, the federal definition of “gross estate.” Tax-General §7-301(b) (The term “[e]state’ means the federal gross estate of the decedent as determined by Subtitle B of the Internal Revenue Code...”). Moreover, the Maryland “estate” is not restricted to the federal gross estate and is augmented by property not otherwise included in the federal gross estate. Thus, the Maryland estate means the federal gross estate- as *increased* by any property not otherwise included in the federal gross estate that is deemed to be included pursuant to §7-309(b)(6) of this subtitle. Tax-General § 7-301(b).

Mrs. Taylor's estate was properly reported by Petitioner on the Estate's federal estate tax return as \$5,582,245 on her date of death. This value, pursuant to 26 U.S.C. § 2044(a), included the value of the property in which Mrs. Taylor had "a qualifying income interest for life" which was Mrs. Taylor's QTIP property. There is no statute or statutory provision that authorizes Petitioner to subtract the value of Mrs. Taylor's QTIP property from her federal gross estate for Maryland estate tax purposes.

It is this 3rd day of September, 2015 by the Maryland Tax Court, ORDERED that the Comptroller's assessment of additional estate tax and assessed interest against the Estate of Margaret Beale Taylor is hereby **AFFIRMED**.

cc: K. Donald Proctor, Esq.
Michael J. Salem, Esq.

CERTIFIED TRUE COPY
TEST: John T. Hearn, Clerk

NOTICE: You have the right of appeal from the above Order to the Circuit Court of any County or Baltimore City, wherein the property or subject of the assessment may be situated. The Petition for Judicial Review **MUST** be filed in the proper Court within thirty (30) days from the date of the above Order of the Maryland Tax Court. Please refer to Rule 7-200 et seq. of the Maryland Rules of Court, which can be found in most public libraries.