OHIO COURT OF APPEALS, TENTH APPELLATE DISTRICT

In re Estate of Keeler, 111 Ohio App. 3d 657

676 N.E.2d 1220 (Ohio Ct. App. 1996) · Decided June 13, 1996

SUMMARY

The Ohio Court of Appeals reviewed the reopening of an estate and the assessment of additional Ohio estate-tax interest. The court held that the probate court erred in vacating the settlement order without determining whether the motion was timely under R.C. 2109.35(C), and it remanded for further proceedings. The court also remanded for a full evidentiary hearing concerning whether $1,910.86 represented additional tax or accrued interest, while rejecting equitable recoupment.

CASE DETAILS

COURT	Ohio Court of Appeals, Tenth Appellate District
WRITING FOR THE COURT	Dean Strausbaugh; Peggy Bryant; Tyack
JURISDICTION	Ohio
DECIDED	June 13, 1996
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The Estate appealed the Franklin County Court of Common Pleas, Probate Division's judgment imposing $3,866.44 in additional interest on unpaid Ohio estate tax and its order vacating the settlement of the estate's final account.
STANDARD OF REVIEW	The court reviewed the probate court's vacation of the settlement order for abuse of discretion and legal error under R.C. 2109.35(C). It also reviewed the trial court's treatment of the referee's findings and the evidentiary record in determining whether reversal and remand were required.
PRECEDENTIAL VALUE	Published Ohio Court of Appeals opinion
PARTIES	Estate of Anne R. Keeler v. Tax Commissioner

TOPICS

probate procedure · estate administration · estate tax · tax statute of limitations · appellate procedure

PRACTICE AREAS

Probate · Ohio estate taxation · Appellate procedure

QUESTIONS PRESENTED

1. Whether the probate court properly vacated the order settling the estate's final account under R.C. 2109.35(C).
2. Whether the record established that the estate owed an additional $3,866.44 in interest or that the $1,910.86 assessment represented additional tax rather than interest.
3. Whether the Federal Agreement tolled or affected the limitations period for determining Ohio estate tax under R.C. 5731.38.
4. Whether the estate could use equitable recoupment to offset any Ohio estate tax liability with an alleged overpayment.

HOLDINGS

1. The probate court erred in vacating the settlement order because the record did not establish compliance with the statute's requirement that the motion be filed within one year after the movant acquired actual knowledge of the proceeding, in addition to the outside three-year period.
2. The existing record was insufficient to determine whether the $1,910.86 represented additional Ohio estate tax or interest on the previously determined $6,032.50 tax deficiency; a full evidentiary hearing was required.
3. When a taxpayer enters into a Federal Agreement under R.C. 5731.26(C), the taxpayer is estopped from asserting the R.C. 5731.38 limitations period when the final federal estate tax determination occurs after that period.
4. The estate could not rely on equitable recoupment to offset any Ohio estate tax liability, although it was not necessarily precluded from pursuing a statutory refund.

KEY QUOTATIONS

> *“Thus, the statute does not require the court to vacate such an order, even if all of the above requirements have been satisfied.”* (at 662)

> *“Nonetheless, appellant's first assignment of error is well taken, because of our disposition of the timeliness issue under R.C. 2109.35(C).”* (at 664)

> *“Given the state of the record, the lack of a hearing transcript, the fact that no testimony or other evidence, other than exhibits, was submitted at the hearings before the referee, and the fact that we have no federal estate tax return, even though the Federal Agreement provided that those numbers would be used to help finalize the Ohio return, this court is compelled to reverse the judgment and remand the cause for a full evidentiary hearing on the matter.”* (at 666)

> *“Equitable principles remain inapplicable to Ohio taxation statutes.”* (at 667)

FACTUAL BACKGROUND

Anne R. Keeler died on April 6, 1983, and her estate filed an Ohio estate tax return showing $25,506.98 in tax, of which $19,474.48 was paid. Ohio tax officials later issued documents referring variously to $1,910.86 as deficiency assessment interest and as additional unpaid tax, and the estate paid $8,049.07 in October 1989. The estate's final account was approved in 1991, but the Department of Taxation later sought to reopen the estate and recover additional interest. The record lacked a transcript of the relevant hearings and did not contain the federal estate tax return referenced in the parties' Federal Agreement.

PROCEDURAL HISTORY

The probate court initially approved and settled the estate's final account on September 5, 1991. The Ohio Department of Taxation later moved to reopen the estate and vacate the settlement order based on alleged unpaid interest; the probate court granted that motion, overruled the referee's findings, and entered judgment against the estate for $3,866.44. The Court of Appeals reversed and remanded for the probate court to determine whether the motion to vacate was timely under the one-year and three-year requirements of R.C. 2109.35(C), conduct a full evidentiary hearing concerning the nature of the $1,910.86 assessment, and consider the final federal estate tax return.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The probate court must determine whether the Tax Commissioner's motion to vacate was timely under both the one-year and three-year requirements of R.C. 2109.35(C). It must conduct a full evidentiary hearing concerning whether $1,910.86 constituted additional tax or interest, permit the estate to submit the final federal estate tax return, and consider whether the Ohio estate tax return should be amended. The Tax Commissioner must have an opportunity to support the claim that the amount was additional tax.

CASES CITED

- In re Cain (Oct. 5, 1995), Franklin App. Nos. 95APF01-105 and 95APF02-220, 1995 WL 584395
- Mathe v. Fowler (1983), 13 Ohio App.3d 273, 13 OBR 337, 469 N.E.2d 89
- Watts v. Watts (1882), 38 Ohio St. 480
- In re Estate of McKinnon (1983), 13 Ohio App.3d 305, 13 OBR 381, 469 N.E.2d 852
- Gen. Motors Corp. v. Limbach (1993), 67 Ohio St.3d 90, 92-93, 616 N.E.2d 204, 206-207
- Kroger Co. v. Limbach (1990), 68 Ohio App.3d 330, 588 N.E.2d 261