***1 T.C. 208 (1942)***

A payment made to a spouse to terminate an antenuptial agreement is considered a taxable gift if the rights released under the agreement are not shown to have a value measurable in money or money's worth.

**Summary**

Albert Lasker paid his wife $375,000 to terminate an antenuptial agreement shortly after their marriage. The Tax Court considered whether this payment was a taxable gift or a transfer for adequate consideration. The court held it was a gift because the wife's rights under the antenuptial agreement were not shown to have a measurable monetary value. Additionally, the court determined that gifts of insurance policies to trusts for Lasker's children were completed in 1932, when Lasker relinquished control, not in 1935 when the trusts were made irrevocable by others.

**Facts**

Albert Lasker, a wealthy widower, entered into an antenuptial agreement with Doris Kenyon Sills, his fiancee. The agreement stipulated that if she lived with him as his wife until his death, he would provide for her in his will, including a home, furnishings, $200,000, and a life estate in a trust equal to one-half of his estate (less certain deductions). Shortly after their marriage, Lasker paid Sills (now Lasker) $375,000 to cancel the antenuptial agreement, releasing her rights to his property. Lasker later filed a gift tax return, claiming the payment was not a gift but consideration for the cancellation of the agreement. Lasker also made gifts of life insurance policies to trusts established for his children.

**Procedural History**

The Commissioner of Internal Revenue determined a deficiency in Lasker's gift tax for 1938, arguing the $375,000 payment was a gift. The Commissioner also sought to increase the deficiency by including the value of insurance policies transferred to trusts in 1932, arguing the gifts weren't complete until 1935. The Tax Court addressed both issues.

**Issue(s)**

1. Whether the $375,000 payment made by Lasker to his wife to cancel their antenuptial agreement constituted a taxable gift under Section 503 of the Revenue Act of 1932.

2. Whether the transfers of life insurance policies by Lasker to trusts created for his children in 1932 constituted completed gifts as of that time, or as of 1935 when the trusts were made irrevocable.

**Holding**

© 2025 SCOTUSreports.com. All rights reserved. 

1. Yes, because Lasker failed to demonstrate that the rights his wife relinquished under the antenuptial agreement had a value measurable in money or money's worth.

2. Yes, because Lasker relinquished control over the insurance policies in 1932, and any power to modify or revoke the trusts after that date was not vested in him.

**Court's Reasoning**

Regarding the antenuptial agreement, the court reasoned that Lasker retained absolute ownership of his property after the agreement, subject only to the restriction that he could not defraud his wife. The court distinguished this from a remainder interest not subject to such invasion. The court emphasized that the wife's rights were contingent on her living with Lasker as his wife at his death, an event impossible to determine with certainty. The court stated, "What is the value in money of such a right? It is something possibly attractive to him because it permits a satisfaction of his then desires and gives him freedom in the ultimate disposition of his property, but it contains no basis supporting a valuation in terms of money." The court distinguished this case from *Bennet B. Bristol, 42 B.T.A. 263*, because in *Bristol*, the taxpayer purchased a release of inchoate dower rights, whereas here, the wife had already released her marital rights under the antenuptial agreement.

Regarding the insurance policies, the court found that Lasker's gifts were complete in 1932 because he did not retain the power to revest title in himself. The court emphasized that the power to modify or terminate the trusts was vested in other trustees, not Lasker. The court noted that the legislative history of the gift tax provisions enacted in 1932 showed that Congress rejected the suggestion that transfers should not be treated as completed gifts where the power to revoke was vested in persons other than the grantor.

**Practical Implications**

This case clarifies the standard for determining whether payments to terminate antenuptial agreements are taxable gifts. It emphasizes that the rights released must have a demonstrable monetary value. The case highlights the importance of carefully structuring antenuptial agreements and documenting the consideration exchanged. It also reinforces the principle that a gift is complete for gift tax purposes when the donor relinquishes dominion and control over the transferred property, even if others have the power to modify the terms of a trust. Later cases have cited *Lasker* for the principle that the relinquishment of rights must have an ascertainable monetary value to constitute adequate consideration for gift tax purposes.

© 2025 SCOTUSreports.com. All rights reserved. 