1 T.C. 543 (1943)

A transfer of property in exchange for a promise of lifetime support is a taxable gift to the extent the property's value exceeds the reasonably calculable value of the support agreement.

Summary

Sarah Bergan transferred a portion of her inheritance to her sister, Margaret Goggin, in exchange for lifetime support. The Tax Court addressed whether this transfer was subject to estate tax and/or gift tax. The court held that the transfer was not includable in Bergan's gross estate because it was not made in contemplation of death or intended to take effect at death. However, the court found that the transfer was subject to gift tax to the extent that the value of the transferred property exceeded the value of the support agreement, which could be calculated using actuarial tables.

Facts

Sarah Bergan and Margaret Goggin were sisters. After their sister, Kate Johnson, died intestate, Sarah and Margaret were entitled to inherit equal shares of Kate's estate. Sarah proposed that she would take only $50,000 in bonds, and Margaret would receive the balance of Sarah's share in exchange for Margaret's promise to support Sarah for the rest of her life. This oral agreement was fully executed. Sarah did not file a gift tax return for the transfer. The Commissioner determined that the transfer was subject to both gift and estate tax.

Procedural History

The Commissioner of Internal Revenue assessed a deficiency in gift tax and estate tax against Sarah Bergan's estate. The estate petitioned the Tax Court for redetermination of the deficiencies. The Tax Court consolidated the proceedings.

Issue(s)

1. Whether the transfer of property by Sarah Bergan to Margaret Goggin in exchange for lifetime support is includable in Sarah Bergan's gross estate under Section 811(c) of the Internal Revenue Code?
2. Whether the transfer is subject to gift tax under Sections 501 and 503 of the Revenue Act of 1932?

Holding

1. No, because the transfer was not made in contemplation of death, nor was it intended to take effect in possession or enjoyment at or after Sarah Bergan's death.
2. Yes, because the value of the property transferred exceeded the value of the

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consideration received (the promise of support), and the excess is deemed a gift under Section 503.

Court's Reasoning

The court reasoned that the transfer was not testamentary in character, as Sarah was in good health and the transfer was associated with life motives, such as wanting to be supported and to make charitable gifts. The court distinguished the case from *Tips v. Bass* and *Updike v. Commissioner*, where trusts were created to secure annuities, whereas, in this case, Margaret Goggin was free to use the property as she pleased. Therefore, Section 811(c) did not apply.

Regarding the gift tax, the court determined that the promise of support was valid consideration but less than adequate and full consideration. The court determined a monetary value for the support agreement, using actuarial tables to calculate the present value of an annuity equal to the annual cost of Sarah's support. The court stated that "[w]here property is transferred for less than an adequate and full consideration in money or money's worth, then the amount by which the value of the property exceeded the value of the consideration constitutes a gift within the meaning of the statute." Therefore, the excess of the property's value over the support's value was deemed a gift.

Practical Implications

This case provides guidance on how to treat transfers of property in exchange for support for both estate and gift tax purposes. It establishes that such transfers are not automatically included in the gross estate if they are not made in contemplation of death or intended to take effect at death. It also clarifies that even if there is valid consideration for a transfer, a gift tax may still be imposed if the value of the transferred property exceeds the value of the consideration. The court's approach to valuing the support agreement using actuarial tables provides a practical method for determining the amount of the gift. This case is relevant for estate planning, particularly when considering lifetime transfers of property in exchange for care or support, and highlights the importance of accurately valuing such arrangements to minimize potential gift tax liabilities.

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