1 T.C. 663 (1943)

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When calculating the charitable deduction for estate tax purposes, inter vivos transfers to charitable organizations must be reduced by the amount of federal estate taxes and state inheritance taxes paid on such transfers, and reasonable trustees' commissions and attorney's fees incurred after the decedent's death for administering the estate are deductible.

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Summary

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The Tax Court addressed whether the Commissioner properly reduced deductions for charitable transfers, attorneys' fees, and trustees' commissions in calculating estate tax liability. The decedent established revocable trusts during his lifetime, with income payable to himself and his wife, and the remainder to the University of Vermont. The court held that the charitable deduction must be reduced by estate and inheritance taxes. It also allowed deductions for trustees' commissions for distributing trust corpus and attorneys' fees for services after the decedent's death related to trustees' accounting, deeming them charges against the gross estate.

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Facts

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Charles W. Waterman created two revocable trusts during his life, retaining the income for himself and then for his wife, with the remainder to the University of Vermont. At the time of his death in 1932, the trusts were valued at $1,384,605.88. The trust agreements stipulated that the trustees were entitled to commissions of one percent of the market value of the principal received and one percent of the market value of the principal paid out. After Waterman's death, the trustees incurred attorneys' fees related to Colorado inheritance tax and federal estate tax proceedings, and for accounting services. Colorado inheritance taxes of $157,140.24 were paid.

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Procedural History

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The Commissioner of Internal Revenue determined a deficiency in the estate tax. The trustees, acting as those in possession of the estate since no executors were appointed, filed a petition with the Tax Court contesting the Commissioner's reduction of deductions for charitable transfers, attorneys' fees, and trustees' commissions. The case was submitted to the Tax Court based on stipulated facts.

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Issue(s)

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1. Whether the charitable deduction from the gross estate for an inter vivos transfer to a charitable organization should be reduced by the amount of federal estate taxes and state inheritance taxes paid.

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2. Whether trustees' commissions for distributing trust corpus and attorneys' fees for services performed after the decedent's death in connection with trustees' accounting are deductible from the gross estate.

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Holding

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1. No, because transfers are like bequests, legacies, and devises, included both in the provision for deduction and the provision for reduction by estate and inheritance taxes, within proper interpretation of the section and the intention of Congress.

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2. Yes, because these expenses are necessary charges against the estate and directly reduce the amount eventually received by the beneficiaries.

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Court's Reasoning

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Regarding the charitable deduction, the court reasoned that while Section 303(a)(3) of the Revenue Act of 1926 allowed deductions for inter vivos transfers to charities, it also provided for reducing deductions for bequests, legacies, and devises by the amount of estate and inheritance taxes. The court found that inter vivos transfers that are revocable should be considered substitutes for testamentary disposition and treated similarly to bequests, legacies, and devises. Therefore, the charitable deduction must be reduced by the amount of federal estate taxes and state inheritance taxes paid.

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The court noted that the legislative history of the 1932 Revenue Act indicated an intent to reverse the Supreme Court's decision in *Edwards v. Slocum*, where a residuary gift to charity was not reduced by the federal estate tax. The House Committee Report stated this covered "the amount given to and received by charity" generally, irrespective of the form.

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As for trustees' commissions and attorneys' fees, the court found that these were necessary charges against the estate at the date of death. The agreement for commissions was enforceable by the trustees, reducing the amount to be realized by the trust. Unlike cases where deductions based on corpus value were denied because the value was too

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