Estate of Delany v. Commissioner, 1 T.C. 787 (1943)

Transfers to irrevocable trusts are not included in a decedent's gross estate as transfers intended to take effect at or after death merely because a remote reversionary interest is created by operation of law due to the possibility of the trust failing, and transfers are not made in contemplation of death if the dominant motive was associated with life rather than death.

Summary

The Estate of Delany contested the Commissioner's inclusion of certain assets in the decedent's gross estate, specifically interests in trusts and a direct gift to his son. The Tax Court addressed whether these transfers were intended to take effect at or after death or were made in contemplation of death under Section 302 of the Revenue Act of 1926. The court held that the transfers to the trusts were not intended to take effect at or after death because any reversionary interest was too remote and arose only by operation of law if the trusts failed. The court also found that the transfers were not made in contemplation of death because the decedent's primary motives were related to managing his assets, providing for his children, and reducing income tax liability, all life-associated motives.

Facts

The decedent, at various times, created three irrevocable trusts: an insurance trust in 1917, a funded insurance trust in 1923, and a trust in 1935. The trust instruments did not contain any express provisions for the corpus to revert to the grantor. The decedent also made a direct gift of securities to his son in 1935. Decedent died at approximately 80 years and 7 months of age. The Commissioner sought to include the assets transferred into these trusts and the direct gift in the decedent's gross estate, arguing the transfers were made in contemplation of death or intended to take effect at or after death.

Procedural History

The Commissioner of Internal Revenue determined a deficiency in the estate tax of the Estate of Delany, including in the gross estate the value of the trust assets and the direct gift. The Estate appealed to the Tax Court, contesting the Commissioner's determination.

Issue(s)

1. Whether the transfers to the insurance trust of 1917, the funded insurance trust of 1923, and the trust of 1935 were intended to take effect in possession or enjoyment at or after the decedent's death under Section 302(c) of the Revenue Act of 1926, as amended?

2. Whether the funded insurance trust of 1923, the trust of 1935, and the gift of

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securities to the son in 1935 were transfers made in contemplation of death under Section 302(c) of the Revenue Act of 1926, as amended?

Holding

1. No, because the reversionary interests were not expressly reserved and arose only by operation of law if the trusts failed, which is a remote possibility insufficient to include the trust assets in the gross estate.

2. No, because the transfers were primarily motivated by life-associated purposes such as relieving the decedent of management responsibilities, providing independent income for his daughters, equalizing gifts among his children, and reducing income tax liability, rather than by the contemplation of death.

Court's Reasoning

The court distinguished the case from *Helvering v. Hallock*, 309 U.S. 106 (1940), where the grantor expressly reserved a contingent reversionary interest. Here, any reversionary interest arose by operation of law because the trust instruments did not explicitly address what would happen if the beneficiaries predeceased the decedent. The court cited *Commissioner v. Kellogg*, 119 F.2d 54 (3d Cir. 1941), which held that trust property should not be included in the grantor's gross estate where there was no expressly reserved reversionary interest. The court emphasized the remoteness of the possibility of the trusts failing, noting that for the 1935 trust, the corpus would only revert to the decedent if he survived all his lineal descendants, the children of his two sisters, and their issue, calling it a possibility that

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