1 T.C. 798 (1943)

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A trustee holding property transferred by gift is liable for the donor’s unpaid gift tax to the extent of the trust property, and gifts of income to be received in the future are considered future interests, ineligible for the gift tax exclusion.

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Summary

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In 1932, Landon created an irrevocable trust with Fletcher Trust Co. as trustee, funding it with life insurance policies. Landon retained the right to change beneficiaries until 1936 when he renounced this right. The Tax Court addressed three issues: when the gift was complete, whether the trustee was liable for the gift tax, and whether gifts to beneficiaries qualified for the gift tax exclusion. The court held that the gift was completed in 1936, the trustee was liable for the gift tax up to the value of the trust property, and the gifts were future interests ineligible for the exclusion.

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Facts

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Hugh McK. Landon established an irrevocable trust with Fletcher Trust Company as the trustee in 1932, transferring life insurance policies into the trust. The trust agreement initially allowed Landon to change beneficiaries, but not to reclaim any interest for himself. In 1936, Landon amended the trust to irrevocably surrender his right to change beneficiaries. The trust provided for income distribution to Landon’s son-in-law, Robert F. Scott, with the principal eventually going to Indiana University, and to his daughters, Alice L. Sawyer and Margaret L. Delaplane, with provisions for their descendants. Landon paid the insurance premiums on the policies held in the trust.

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Procedural History

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The Commissioner of Internal Revenue determined a deficiency in Landon's 1936 gift tax and assessed it against Fletcher Trust Co. as the transferee. Fletcher Trust Co. petitioned the Tax Court for review. The Commissioner then amended his answer, arguing for an increased deficiency by denying the gift tax exclusion previously allowed.

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Issue(s)

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1. Whether Landon's gift was completed in 1932 when the trust was initially created, or in 1936 when he relinquished his right to change beneficiaries.

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2. Whether Fletcher Trust Co., as trustee, is liable for Landon's unpaid gift tax as a transferee of the property.

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3. Whether the gifts to the beneficiaries, particularly the income interest to Landon's son-in-law, Robert F. Scott, constitute present or future interests for the purpose of the gift tax exclusion under Section 504(b) of the Revenue Act of 1932.

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Holding

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1. No, because Landon retained the power to change the beneficiaries until 1936, the gift was not complete until he relinquished that power.

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2. Yes, because as the trustee holding the gifted property, Fletcher Trust Co. is a transferee under Section 526 of the Revenue Act of 1932 and is liable for the gift tax to the extent of the value of the trust property.

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3. No, because the income interest to Robert F. Scott is a future interest as it

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represents a right to income from a share of the trust corpus only after the donor's death, with no present right to the corpus or any immediate income.

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Court's Reasoning

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The court relied on *Sanford's Estate v. Commissioner* and *Rasquin v. Humphreys*, holding that a gift is incomplete as long as the donor retains control over the disposition of the property, even if the donor cannot revest the property in themselves. The court stated that, "the completed gift occurred on that date regardless of the fact that he did retain until the amendment of July 18, 1936, the right to change the beneficiaries named and the terms under which the interest of any beneficiary might be taken."

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The court reasoned that Section 526 of the Revenue Act of 1932 defines

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