2 T.C. 246 (1943)

The relinquishment of a retained power to designate beneficiaries of a trust remainder constitutes a taxable gift, and the value of a large block of stock may deviate from market prices.

Summary

Henry F. du Pont relinquished his power to designate beneficiaries of a trust he created in 1927, which held E. I. du Pont de Nemours & Co. stock. The trust income was payable to his sister for life, with the remainder to beneficiaries he would designate. In 1939, Du Pont released his power of appointment, leading the IRS to assess a gift tax. The Tax Court addressed whether this relinquishment was a taxable gift and the proper valuation of the gift, considering the large block of stock involved and the appropriate mortality table for valuing the remainder interest. The court found the relinquishment to be a taxable gift, determined a value for the stock lower than the market price, and upheld the IRS's remainder factor.

Facts

In 1927, Henry F. du Pont created a trust with Wilmington Trust Co., transferring 15,000 shares of E. I. du Pont de Nemours & Co. stock. The trust directed income to Louise Evelina du Pont Crowninshield (petitioner's sister) for life. Upon her death, the trustee was to distribute the fund as petitioner designated to a specific group of beneficiaries. If petitioner failed to designate beneficiaries, the fund would go to his children, or their issue, or Nicholas Ridgely du Pont, or the University of Delaware. On January 4, 1939, petitioner released his right to designate beneficiaries. On that date, the trust held 52,900 shares of du Pont stock.

Procedural History

The IRS determined that Du Pont's relinquishment of the power to designate beneficiaries in 1939 constituted a taxable gift and assessed a deficiency. Du Pont paid a portion of the assessed deficiency and filed a gift tax return stating that no gift tax was due. Du Pont then petitioned the Tax Court challenging the deficiency assessment.

Issue(s)

1. Whether the relinquishment of the petitioner's right and power under the trust agreement constituted a taxable gift.

2. If the relinquishment was a taxable gift, what was the value of that gift, considering the large block of du Pont stock and the appropriate mortality table for valuing the remainder interest.

Holding

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1. Yes, because the retention of control over the disposition of the trust property renders the gift incomplete until the power is relinquished.

2. The value of the gift is determined by valuing the corpus of the estate at $135 per share, using the remainder factor employed by the IRS, because the evidence failed to show that the Commissioner's method was erroneous or that there are more accurate methods available than the one he used.

Court's Reasoning

The court relied on *Sanford's Estate v. Commissioner, 308 U.S. 39* (1939), stating that the retention of control over the disposition of the trust property rendered the gift incomplete until the power was relinquished. The court reasoned that Du Pont's power to select beneficiaries meant the original gift was incomplete. The court dismissed the argument that the Revenue Act of 1942 affected this conclusion, finding that the Act was intended to apply to powers received from another person, not powers reserved by the donor themselves. Regarding valuation, the court recognized that the stock exchange prices did not accurately reflect the fair market value of the large block of stock, referencing *Safe Deposit & Trust Co. of Baltimore, 35 B.T.A. 259* (1937). The court found the market was thin and a sale of that size would depress prices. The court accepted expert testimony suggesting a lower per-share price and set the fair market value at $135 per share. Finally, the court approved the IRS's use of the Actuaries' or Combined Experience Table of Mortality because the petitioner did not demonstrate a more accurate method to value the remainder interest. The court stated that: "Valuation for estate or inheritance tax purposes is computed in some 17 states by the use of the Actuaries' or Combined Experience Mortality Table… We cannot say under those circumstances that the provisions of the Commissioner's regulations are unreasonable or arbitrary."

Practical Implications

This case reinforces the principle that relinquishing control over a previously established gift can trigger gift tax liability. It demonstrates that the value of a large block of stock may deviate from the market price due to the potential impact of a large sale on market conditions, leading to the acceptance of expert testimony in determining value. It confirms the acceptability of established mortality tables in valuing remainder interests unless the taxpayer provides evidence of a more accurate method. Later cases citing this decision typically focus on the blockage discount issue, requiring taxpayers to provide solid evidence to support deviations from publicly traded prices. It highlights the IRS's discretion in valuation methods when taxpayers fail to provide better alternatives. This case impacts estate planning by emphasizing the importance of understanding when retained powers become taxable events.

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