***2 T.C. 332 (1943)***

r
r

Life insurance policies held by a partnership on the lives of its partners, with the partnership as beneficiary and paying the premiums, are considered partnership assets, and the deceased partner's interest is included in the gross estate as part of the partnership's value, not as life insurance proceeds subject to the $40,000 exclusion.

r
r

**Summary**

r

The Tax Court addressed whether life insurance proceeds from policies held by a partnership on the life of a deceased partner should be treated as part of the deceased's life insurance subject to estate tax exclusion or as a partnership asset. The court held that because the partnership owned the policies, paid the premiums, and was the beneficiary, the proceeds were a partnership asset. The decedent's interest was thus included in the value of his partnership interest and was not separately excludable as life insurance. The court also addressed the valuation of partnership assets, including stocks, and the deductibility of a claim against the estate.

r
r

**Facts**

r

George Herbert Atkins was a partner in Atkins, Kroll & Co. The partnership held life insurance policies on the joint lives of Atkins and another partner, with the partnership as the beneficiary. The partnership paid the premiums. The partners agreed that the insurance proceeds would be used to liquidate partnership debt. Upon Atkins' death, the insurance proceeds were paid to a partnership creditor. In the estate tax return, Atkins' executrix excluded a portion of the insurance proceeds from the partnership interest, included it in the insurance schedule, and claimed a $40,000 exclusion. The Commissioner of Internal Revenue included the insurance in the partnership value and denied the separate insurance exclusion.

r
r

## Procedural History

r

The executrix filed an estate tax return. The Commissioner determined a deficiency. The executrix petitioned the Tax Court for a redetermination of the deficiency. The Tax Court heard the case to determine the proper tax liability of the estate.

r
r

## Issue(s)

r

1. Whether the proceeds of life insurance policies held by a partnership on a partner's life, with the partnership as beneficiary, should be included in the deceased partner's gross estate as life insurance subject to the $40,000 exclusion.

r

2. Whether the fair market value of stocks held by the partnership was correctly determined by the Commissioner using the mean between the high and low market quotations.

r

3. Whether the estate could deduct the full amount of a jointly and severally liable note, even though the co-makers were solvent and primarily liable for portions of the debt.

r
r

## Holding

r

1. No, because the policies were owned and paid for by the partnership, making the proceeds a partnership asset, not life insurance taken out by the decedent.

r

2. Yes, because the mean between the high and low market quotations on the date of death is the standard method for determining fair market value.

r

 

3. No, because the deduction is limited to the portion of the debt for which the decedent was ultimately liable, considering the solvency of the other co-makers.

r
r

**Court’s Reasoning**

r

The court reasoned that the critical factor for the insurance proceeds was whether the policies were

 