2 T.C. 487 (1943)

Property transferred by a decedent to an independent trustee, with discretion to use the income for the maintenance of the decedent's minor child, is not automatically includible in the decedent's gross estate for estate tax purposes.

Summary

The Estate of Douglass challenged a deficiency in estate tax. The central issue was whether the corpus of a trust created by the decedent during his lifetime for the benefit of his minor child should be included in the gross estate. The trust allowed the trustees, who were independent of the decedent, to use the income for the child's maintenance, education, and support. The Tax Court held that because the decedent did not retain the right to the income and the trustees had discretion over its distribution, the trust corpus was not includible in the gross estate. The court distinguished the case from situations where the grantor retains a direct right to have the income applied to discharge their legal obligations.

Facts

The decedent, Payson Stone Douglass, created a trust during his lifetime. The trust's terms granted the trustees discretion to apply the income to the maintenance, education, and support of Douglass's minor child. Douglass was not a trustee of the trust. Upon Douglass's death, the Commissioner of Internal Revenue determined that the corpus of this trust should be included in Douglass's gross estate for estate tax purposes, leading to a deficiency assessment.

Procedural History

The Estate of Douglass filed an estate tax return. The Commissioner determined a deficiency. The Estate petitioned the Tax Court for a redetermination of the deficiency.

Issue(s)

Whether the corpus of a trust created by the decedent, granting the trustees discretion to apply the income for the maintenance, education, and support of the decedent's minor child, is includible in the decedent's gross estate under federal estate tax law when the decedent was not a trustee and had no direct control over the income's distribution.

Holding

No, because the decedent did not retain the right to the income, and the trustees, not the decedent, held discretionary power over the distribution of the income for the child's benefit.

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Court’s Reasoning

The court emphasized that Section 302, the relevant estate tax provision, did not expressly cover permissive or discretionary trusts where the decedent had no direct control. The court distinguished this situation from cases where the decedent retained

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