2 T.C. 634 (1943)

A gift is not considered a transfer intended to take effect in possession or enjoyment at or after the donor's death, and thus is not includible in the gross estate, if the donor unconditionally parts with all interest in the transferred property during their lifetime, even if the actual payment or enjoyment is deferred until after the donor's death.

Summary

William A. Taylor Sr. assigned a portion of a debt owed to him by his son, Henry, to his other son, William Jr., to provide him with independent income. William Jr. agreed to place the funds in a trust upon receipt, with income to himself for life, then to his daughter, with remainder to her issue or William Jr.'s brother (Henry) or his issue. The Tax Court held that this transfer was not intended to take effect in possession or enjoyment at or after William Sr.'s death and therefore was not includible in his gross estate for estate tax purposes, because Taylor Sr. parted with the property during his life.

Facts

William A. Taylor Sr. wished to provide independent income for his son, William A. Taylor Jr. Taylor Sr. held a note from his son, Henry, for $675,000. Taylor Sr. assigned $165,000 of this debt to William Jr. In return, William Jr. agreed to create a trust with the funds upon receipt, providing income to himself for life, then to his daughter Jessie for life, with the remainder to her issue, or if none, to Henry or his issue. Henry then executed a new note for $165,000 payable to William Jr. no later than 18 months after Taylor Sr.'s death. William Jr. acknowledged that the gift would be an advance against his share of his father's estate.

Procedural History

The Commissioner of Internal Revenue determined a deficiency in William A. Taylor Sr.'s estate tax, including the $165,000 gift to William Jr. in the gross estate. The estate petitioned the Tax Court, claiming the gift was improperly included. The Tax Court ruled in favor of the estate, finding the gift was not intended to take effect at or after Taylor Sr.'s death.

Issue(s)

Whether the gift by William A. Taylor Sr. to William A. Taylor Jr. was a transfer intended to take effect in possession or enjoyment at or after William A. Taylor Sr.'s death under Section 302(c) of the Revenue Act of 1926, as amended, and therefore includible in his gross estate.

Holding

No, because William A. Taylor Sr. unconditionally parted with all interest in the note during his lifetime, and his death did not add anything to William Jr.'s property rights in the note.

Court's Reasoning

The court reasoned that the key factor is whether the donor retained any control or interest in the transferred property until death. Citing *Helvering v. Hallock*, the court distinguished the present case, noting that in *Hallock*, the grantor retained a possibility of reverter, making the transfer akin to a testamentary disposition. Here, Taylor Sr. made a complete gift during his lifetime, relinquishing all control and interest. The agreement by William Jr. to create a trust did not give Taylor Sr. any dominion or control over the gift; his only recourse was to compel specific performance of the agreement to create the trust. The court quoted *Reinecke v. Northern Trust Co.*, stating that to include a gift in the donor's estate as intended to take effect at or after death, "it is necessary that something pass from decedent at death." Taylor Sr.'s death merely fixed a definite time for the payment of the note, but did not affect William Jr.'s ownership of the rights in the note, which had vested before Taylor Sr.'s death.

Practical Implications

This case clarifies that a completed gift made during the donor's lifetime is not includible in their gross estate simply because actual possession or enjoyment is deferred until after the donor's death. The critical factor is whether the donor retained any control or interest in the property. This case emphasizes that for a transfer to be considered as taking effect at death, the donor's death must be the event that triggers a shift in economic interest or control over the property. This ruling impacts estate planning by allowing individuals to make gifts with the assurance that they will not be included in their estate, provided they relinquish all control and ownership during their lifetime. Later cases distinguish *Taylor* when the donor retains significant control or a reversionary interest.

