***Marshall v. Commissioner*, 2 T.C. 1048 (T.C. 1943)**

A testamentary bequest to a trust is not deductible as exclusively charitable or educational under Section 812(d) of the Internal Revenue Code if a substantial purpose of the trust is to influence legislation, even if the trust also has educational or charitable purposes.

Summary

The decedent established testamentary trusts intended to promote education on unions, civil liberties, and wilderness preservation. The will granted the trustees explicit power to draft legislation and advocate for its enactment. The Tax Court considered whether these bequests qualified for estate tax deductions as exclusively charitable, scientific, or educational under Section 812(d) of the Internal Revenue Code. The court held that because a substantial purpose of the trusts was to influence legislation, the bequests were not exclusively charitable and thus not deductible, despite their educational aspects.

Facts

The decedent's will established three trusts, each with five trustees, funded by the residuary estate. The trusts were perpetual and empowered trustees to use income and principal for specified purposes:

1. Trust 1 (two parts): To educate Americans on unions and promote a production-for-use economic system.
2. Trust 2 (one part): To safeguard and advance civil liberties in the U.S.
3. Trust 3 (one part): To preserve wilderness conditions in America.

For all trusts, trustees were authorized to employ staff, publish materials, and crucially, "draft bills and acts, laws and other legislation and use all lawful means to have the same enacted into the law…and by the Congress of the United States." Trustees could also transfer funds to non-profit corporations with similar objectives or incorporate new entities to administer the trusts. The Attorney General of New York approved the trust administration.

Procedural History

The Tax Court was tasked with determining whether the value of these testamentary trusts was deductible from the gross estate under Section 812(d) of the Internal Revenue Code as bequests exclusively for charitable, scientific, or educational purposes. The Commissioner of Internal Revenue challenged the deductibility, while the petitioner, representing the estate, argued for it.

Issue(s)

1. Whether bequests to trusts, which authorize trustees to draft and promote

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legislation related to their stated purposes, are considered bequests exclusively for charitable, scientific, or educational purposes under Section 812(d) of the Internal Revenue Code.

Holding

1. No. The bequests are not exclusively charitable, scientific, or educational because a substantial purpose of the trusts, as explicitly stated in the will, is to influence legislation, which is considered a political activity outside the scope of Section 812(d).

Court's Reasoning

The court acknowledged that while the term "exclusively" in Section 812(d) is liberally construed to mean "predominantly," the trusts in question failed to meet even this less stringent standard. The court reasoned that the will clearly demonstrated a dual purpose: education and legislative action. The power granted to trustees to draft and promote legislation was not deemed incidental to the educational purpose but rather a significant, independent objective. The court stated:

"Although the education of the public was an important purpose of the trusts decedent intended another purpose, which was to draft bills and acts and use all lawful means to enact them into law. This latter purpose was too important and prominent to be classed as incidental, contributory, or subservient to a primary purpose of education. Read in its entirety, the will shows an intent and purpose not only to educate, but also to bring about legislation. Certainly, we can not say under these testamentary provisions that the legislative aspect was only incidental to a primary purpose which was charitable or educational."

The court relied on precedent, citing *Slee v. Commissioner*, which held that "political agitation as such is outside the statute." It distinguished *Leubuscher v. Commissioner*, where a deduction was allowed because the purpose was teaching, not legislation. The court also referenced *John H. Watson, Jr.* and *Vanderbilt v. Commissioner*, both denying deductions for organizations involved in legislative advocacy. Quoting *Vanderbilt*, the court emphasized that "The procuring of the enactment and repeal of laws through the drafting of bills, their advocacy, the furnishing of facts and information in their support, and the payment of the cost of carrying on such activities are not educational but political."

The court concluded that the explicit authorization for legislative action within the will, regardless of the trustees' actual activities, disqualified the bequests from being considered exclusively charitable under Section 812(d).

Practical Implications

Marshall v. Commissioner underscores the critical importance of the "exclusively"

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charitable, scientific, or educational purpose requirement for estate tax deductions under Section 812(d) (and its successors in current tax law). It serves as a cautionary tale for estate planners and donors intending to create charitable trusts that engage in any form of legislative or political activity. Even if a trust has genuine educational or charitable aims, explicitly granting trustees powers to lobby for legislation can jeopardize the deductibility of the bequest. This case highlights that while incidental legislative advocacy might be permissible, a substantial purpose of influencing legislation will likely disqualify a bequest from charitable deduction. Attorneys drafting trust documents for charitable purposes must carefully delineate the scope of permissible activities, particularly concerning legislative advocacy, to ensure intended tax benefits are realized. Later cases distinguish based on the degree and nature of legislative influence, but *Marshall* remains a key precedent for denying deductions when legislative action is a prominent, authorized purpose of the trust.

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