Riter v. Commissioner, 3 T.C. 301 (1944)

A gift of income from a trust, where the trustee has the discretion to terminate the trust by distributing the corpus to the beneficiary, is not a present interest eligible for the gift tax exclusion because its value cannot be reliably determined.

Summary

The petitioner, as the transferee of gifts made by her husband, contested a gift tax deficiency. The core issue revolved around whether gifts made to trusts for the benefit of the wife and children qualified as present interests eligible for the gift tax exclusion. The Tax Court held that gifts of income to the wife were not present interests because the trustee had the power to terminate the trust and the income stream was thus not reliably calculable. Further, a prior stipulated judgment regarding the donor's 1936 gift taxes did not estop the Commissioner from re-evaluating the 1936 gifts for the purpose of calculating the 1937 gift tax liability. The Court found the statute of limitations was not a bar to collection from the transferee.

Facts

Henry G. Riter, III, created three trusts in December 1936 and made additions to them in March 1937. Two of these trusts were for the benefit of his wife and son, with similar provisions. The trustee was to pay the net income to the wife until the son reached 21, then to the son until he reached 30, at which point the principal would be transferred to the son. The trustee also had the discretion to transfer the principal to either the wife or son at any time. The Commissioner determined a gift tax deficiency related to these transfers, disallowing gift tax exclusions. The Commissioner allowed a present interest exclusion for the transfer to a trust for the adult daughter.

Procedural History

The Commissioner assessed a gift tax deficiency against Henry G. Riter, III, for 1937. The petitioner, Henry's wife, was assessed as a transferee. She petitioned the Tax Court contesting the deficiency. The case was submitted on stipulated facts.

Issue(s)

1. Whether gifts made by Riter in 1937 to the trusts for his wife and son were, in part, gifts of present interests and thus eligible for the gift tax exclusion under Section 504(b)?

2. Whether the Commissioner was bound by a prior stipulated decision of the Board of Tax Appeals determining an overpayment in gift tax of Henry G. Riter, III, for 1936, regarding the valuation of those same gifts?

3. Whether collection from the petitioner as transferee is barred by the statute of limitations, given that the statute had run against the donor?

Holding

1. No, because the trustee's power to terminate the trust by distributing the corpus made the wife's income interest's value unascertainable.

2. No, because the prior Board decision was based on a stipulation, not a decision on the merits.

3. No, because prior precedent in *Evelyn N. Moore, 1 T. C. 14* was controlling on this issue.

Court's Reasoning

The Court reasoned that the wife's right to receive income was a present interest. However, the trustee's power, under Article Third (j) of the trust, to distribute the entire corpus to the son meant the wife's income stream was not reliably calculable, citing *Robinette v. Helvering, 318 U.S. 184*. Without a determinable value, no exclusion could be allowed.
Regarding the 1936 gift tax overpayment, the Court distinguished between a stipulated judgment representing a settlement and a judgment based on a factual stipulation where the court independently adjudicates the matter. Because the 1936 case was settled by stipulation, it did not represent a determination on the merits that would bind the Commissioner in subsequent tax years. The Court cited *Almours Securities, Inc., 35 B. T. A. 61, 69*.
Finally, regarding the statute of limitations, the court held that the petitioner was bound by the holding in *Evelyn N. Moore, 1 T. C. 14*.

Practical Implications

This case illustrates the importance of carefully drafting trust instruments to ensure that intended present interests qualify for the gift tax exclusion. If a trustee's discretionary powers can alter or terminate the purported present interest, the exclusion may be denied. Attorneys should advise settlors that broad trustee powers may jeopardize the availability of the annual exclusion. This case also demonstrates that stipulated judgments carry less precedential weight than judgments on the merits. The Commissioner is not necessarily estopped from re-litigating issues from settled cases in subsequent tax years when calculating taxes for later periods, even if the underlying facts are similar. This case highlights the continued validity of transferee liability even when the statute of limitations has run against the donor.

