3 T.C. 636 (1944)

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A trust created before the 1936 amendment to Section 302(d) of the Revenue Act is not includible in the grantor's gross estate merely because the grantor, acting as a trustee, possesses powers to alter, amend, or terminate the trust, especially if those powers were reacquired after the initial transfer.

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Summary

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The Tax Court addressed whether the corpus of trusts created by Franklin Cutcheon in 1919 should be included in his gross estate for estate tax purposes. Cutcheon had initially named himself as a trustee but resigned, only to be reappointed later. The court held that because the trust was created before the 1936 amendment to Section 302(d), which expanded the scope of includible powers, and because Cutcheon's powers were reacquired, the trust assets were not includible in his estate. The decision relied heavily on the Supreme Court's ruling in *White v. Poor*, which held that such reacquired powers did not trigger inclusion under the then-existing law.

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Facts

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Franklin Cutcheon created four trusts in April 1919, naming himself and two others as trustees. His wife was the life income beneficiary of one trust and the remainderman of the other three. The trusts granted the trustees

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