3 T.C. 832 (1944)

A transfer with a remote possibility of reverter to the grantor's estate is not included in the gross estate for estate tax purposes if the grantor's death was not the intended event that enlarged the estate of the grantee.

Summary

Frances Biddle created an irrevocable trust in 1922, with income to her son for life, then to his children, with the trust property reverting to her estate if all her son's children died without issue. The Commissioner argued that the trust property, less the son's life estate, should be included in Frances Biddle's gross estate under Section 302(c) of the Revenue Act of 1926 because it was a transfer intended to take effect at or after her death. The Tax Court held that the transfer was not includable in the gross estate because Biddle's death was not the intended event that enlarged the estate of the grantees, emphasizing the remoteness of the possibility of reverter.

Facts

On April 21, 1922, Frances Biddle established an irrevocable trust. The trust provided that income would be paid to her son, Sydney G. Biddle, for life. Upon Sydney's death, income was to be used for the maintenance of his children during their minority. Once the children reached ages 21 to 25, they would receive their respective shares of the principal. If a child died before reaching the designated age, the share would go to their issue or siblings. The trust stipulated that if all of Sydney's children died without issue after his death, or if no children or issue were living at the time of his death, the trust would terminate, and the property would revert to Frances Biddle's estate. At the time of the trust's creation, Sydney was 32 and had three children. Frances Biddle died on March 28, 1937, survived by Sydney and his sons.

Procedural History

An estate tax return was filed on June 28, 1938. The Commissioner determined a deficiency, arguing that the trust should be included in the gross estate. The Tax Court reviewed the Commissioner's determination of transferee liability following the notice of deficiency mailed on June 9, 1942, and the petition filed on August 19, 1942.

Issue(s)

Whether the value of the trust corpus, less the life tenant's interest, is includible in the gross estate as a transfer intended to take effect in possession or enjoyment at or after the decedent's death under Section 302(c) of the Revenue Act of 1926.

Holding

No, because the grantor’s death was not the intended event which enlarged the estate of the grantee and the possibility of reverter was too remote.

Court’s Reasoning

The court relied heavily on *Lloyd v. Commissioner, 141 F.2d 758*, which reversed a prior Tax Court decision. The Tax Court reviewed Supreme Court precedents, including *Helvering v. Hallock, 309 U.S. 106*, and concluded that the key inquiry is whether the grantor retained a “string or tie” to reclaim the property or reserved an interest whose passing was determined by their death. Quoting Knowlton v. Moore, the court emphasized that death duties are based on “the power to transmit, or the transmission from the dead to the living.” The court noted that the Supreme Court in *Klein v. United States, 283 U.S. 231*, found the grantor’s death was “the indispensable and intended event” that enlarged the grantee’s estate. Applying these principles, the court determined that the remote possibility of the trust property reverting to Frances Biddle’s estate did not warrant including the trust in her gross estate. The court stated that it should look “at the degree of this probability…and not to the technical nature of the estate which the decedent retained.” As such, the grantor’s death was not the intended event that enlarged the estate of the grantee.

Practical Implications

This case clarifies that a mere possibility of reverter, particularly a remote one, does not automatically trigger inclusion of trust property in a grantor’s gross estate. It reinforces the importance of evaluating the likelihood of the reversionary interest and whether the grantor’s death was the intended event to effectuate a transfer. Attorneys drafting trust instruments must consider the impact of potential reversionary interests on estate tax liability. The case highlights that estate tax inclusion hinges on whether death served as the triggering event for the transfer, not merely the existence of a remote reversion. It provides a basis for arguing against estate tax inclusion when a grantor’s death does not significantly alter the beneficiaries’ enjoyment of the trust property, and subsequent cases have continued to apply this principle.

