Griswold v. Commissioner, 3 T.C. 909 (1944)

When a settlor creates an irrevocable trust and grants the trustees discretion to distribute the trust principal to the life income beneficiary, the entire value of the trust corpus is subject to gift tax, even if the settlor is one of the trustees.

Summary

John Augustus Griswold created an irrevocable trust, naming his mother as the life income beneficiary and granting the trustees (including himself) the discretion to distribute the trust principal to her. Griswold argued that only the value of the life estate should be subject to gift tax because he, as a trustee, retained control over the corpus. The Tax Court disagreed, holding that the entire value of the trust corpus was subject to gift tax because Griswold relinquished "economic control" over the corpus by granting the trustees the power to distribute it to his mother.

Facts

On April 30, 1941, John Augustus Griswold (Petitioner) transferred $125,125 to three trustees, including himself, his brother, and a bank. The trust instrument directed the trustees to pay the net income to Petitioner's mother, Helene Robson Griswold, for her life. The trust instrument also granted the trustees the discretion, with the consent of at least two of them, to pay any amount of the trust principal to Helene. Upon Helene's death, the remaining principal was to be distributed to Petitioner or his brother, depending on survivorship and issue. No distributions from the corpus were made to Helene in 1941.

Procedural History

The Commissioner of Internal Revenue determined a gift tax deficiency, arguing that the entire value of the trust corpus was subject to gift tax. The Petitioner argued that only the life estate's value was taxable. The Tax Court upheld the Commissioner's determination.

Issue(s)

1. Whether the entire value of the trust corpus is subject to gift tax when the trustees have the discretion to distribute the principal to the life income beneficiary.

Holding

1. Yes, because by granting the trustees the power to distribute the principal to the life income beneficiary, the settlor relinquished "economic control" over the entire corpus, making it subject to gift tax.

Court's Reasoning

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The court reasoned that the settlor's power as one of the trustees does not negate the gift tax liability because the trust instrument allowed a majority of the trustees to act, meaning the settlor's individual control was not absolute. The court emphasized that even if the settlor could potentially prevent distribution of the corpus, this possibility was a contingency beyond his sole control, and therefore insufficient to render the gift incomplete for tax purposes. Citing *Robinette v. Helvering*, the court highlighted that the settlor retained only a "mere possibility" of reversion if the trustees did not distribute the corpus. The court relied on precedent, specifically *Rheinstrom v. Commissioner* and *Herzog v. Commissioner*, noting the principle that "the trustor could receive trust property or income 'only by virtue of the trustee's direction' in the matter of transfer or no transfer." The court concluded that this constituted sufficient surrender of economic control to justify the gift tax on the entire value of the trust corpus.

Practical Implications

This case clarifies that granting trustees discretionary power to distribute trust principal can trigger gift tax on the entire corpus, even if the settlor is a trustee. Attorneys drafting trust documents must advise clients that such discretionary powers can result in immediate gift tax liability, even if the principal is never actually distributed. Planners must carefully consider the trade-off between flexibility and tax implications. Subsequent cases applying *Griswold* emphasize the importance of the degree of control retained by the settlor and the extent of the trustees' discretionary powers. This case underscores the broad interpretation of "economic control" in the context of gift taxation, making it more difficult for settlors to avoid gift tax on the full value of assets transferred into trust.

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