4 T.C. 678 (1945)

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A charitable bequest is deductible for estate tax purposes, even if the trust corpus can be invaded for the benefit of a life beneficiary, if the possibility of invasion is remote and the amount of the charitable gift is capable of calculation with reasonable accuracy.

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Summary

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The Tax Court addressed whether a bequest to the University of Colorado's Medical School was deductible from the gross estate, despite a provision allowing the trust corpus to be used for the benefit of the deceased's wife during her lifetime. The court held the bequest was deductible because the wife had substantial independent means, her living expenses were modest, she expressed intent not to invade the trust, and the standard for potential invasion was ascertainable. This made the ultimate charitable distribution calculable with reasonable accuracy.

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Facts

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Horace Wetherill created an irrevocable trust, with income payable to himself during his life, then to his wife, Nellie, after his death. The trust instrument allowed the trustee to use the trust principal for Nellie's care, maintenance, and support if she became incapacitated or for extraordinary expenses due to injury, illness, or disability, provided she stated she lacked sufficient funds. Upon the death of both Horace and Nellie, the remaining trust assets were to be distributed to the Board of Regents of the University of Colorado. Nellie had a separate estate exceeding $100,000 and income sufficient for her needs. She explicitly stated she did not need to draw from the trust.

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Procedural History

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The Commissioner of Internal Revenue determined a deficiency in Horace Wetherill's estate tax, arguing the bequest to the University of Colorado was not deductible. The estate, the trust (Crocker First National Bank as trustee), and the University of Colorado (as transferee) petitioned the Tax Court for redetermination. The Tax Court consolidated the cases.

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Issue(s)

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Whether the value of the bequest to the Board of Regents of the University of Colorado is deductible from the gross estate of Horace G. Wetherill under Section 812(d) of the Internal Revenue Code, despite the possibility that the trust corpus could be invaded for the benefit of Wetherill's wife.

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Holding

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Yes, because the gift to the Board of Regents of the University of Colorado was capable of calculation with reasonable accuracy, as the likelihood of corpus invasion for the benefit of the life beneficiary was remote given her independent means and stated intentions.

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Court's Reasoning

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The court applied the principle established in *Ithaca Trust Co. v. United States*, which permits a charitable deduction where the potential invasion of the corpus is governed by an ascertainable standard. The court distinguished the case from situations where the trust instrument injects elements of enlarged enjoyment or directs invasion based on subjective factors like the beneficiary's

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