4 T.C. 840 (1945)

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When a trust allows the corpus to be used for the settlor's maintenance and support, the trust is considered a transfer intended to take effect at or after death, making the corpus includible in the settlor's gross estate for tax purposes.

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Summary

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Margaret Gallois created a trust, naming herself as a trustee and reserving a life estate in the income. The trust also allowed the trustees to use the corpus for her maintenance and support if the income was insufficient. Upon her death, the Commissioner of Internal Revenue sought to include the trust's corpus in her gross estate. The Tax Court held that because the trust allowed the corpus to be used for Gallois's benefit during her life, it was a transfer intended to take effect at or after her death, thus making it includible in her gross estate under Section 811(c) of the Internal Revenue Code.

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Facts

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Margaret Gallois created a trust in 1924, naming herself, Emile Pissis, and William Cook as trustees. The trust directed income to be used for (a) debt obligations on trust property, (b) taxes and maintenance, and (c) the remainder to Gallois. The trust also authorized the trustees to use the corpus for Gallois's maintenance and support if the income was insufficient. Upon Gallois's death, the income was to be paid to her daughter, Jeanne Hill, for life, with the remainder to Hill's children. The trust was established partly to offset a large loan Gallois had previously made to her son, John. Gallois retained no power to alter, amend, or revoke the trust.

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Procedural History

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The Commissioner of Internal Revenue determined a deficiency in estate tax against the estate of Margaret P. Gallois. The estate challenged this determination in the United States Tax Court. The Tax Court ruled in favor of the Commissioner, holding that the trust corpus was includible in Gallois's gross estate.

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Issue(s)

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Whether the corpus of a trust, created by the decedent who retained a life estate and the possibility of corpus invasion for her benefit, is includible in her gross estate under Section 811(c) of the Internal Revenue Code as a transfer intended to take effect in possession or enjoyment at or after her death.

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Holding

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Yes, because the trust instrument allowed the corpus to be invaded for the settlor's benefit, it could not be determined until her death whether any of the trust would pass to the named remaindermen, making it a transfer intended to take effect at or after death.

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Court's Reasoning

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The court reasoned that since the trust allowed the trustees to use the corpus for Gallois's maintenance and support if the income was insufficient, the transfer was intended to take effect at or after her death. The court relied on *Blunt v. Kelly, 131 F.2d 632*, which held that a similar trust provision caused the transfer to take effect at death. The court distinguished the argument that John Gallois's repayment of his debt constituted a