4 T.C. 1128 (1945)

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A transfer is not considered to take effect in possession or enjoyment at or after death under Section 811(c) of the Internal Revenue Code if the decedent intended to make an irrevocable transfer effective immediately, and their death had no impact on the beneficiaries' enjoyment of the property.

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Summary

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Mary B. Hunnewell deposited $100,000 with an insurance company to benefit her grandchildren who reached age 21. The agreement stipulated that if all grandchildren died before reaching 21, the funds would revert to Hunnewell or her estate. The Tax Court had to determine if this transfer was intended to take effect at or after Hunnewell's death, making it includible in her gross estate for tax purposes. The court held that the transfer was not intended to take effect at or after Hunnewell's death because she intended an immediate gift, and her death did not affect the grandchildren's enjoyment of the property.

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Facts

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Mary B. Hunnewell deposited $100,000 with Massachusetts Hospital Life Insurance Co. on May 1, 1928.r
The deposit was for the benefit of her grandchildren who reached age 21.r
The agreement specified that as each grandchild turned 21, they would receive an equal share of the income annually.r
Upon a grandchild's death after reaching 21, their share of the principal would go to their estate.r
If all grandchildren died before 21, the remaining funds would revert to Hunnewell or her estate.r
At the time of the deposit, Hunnewell had five grandchildren; a sixth was later born.r
Hunnewell died on March 29, 1940. At the time of her death, two grandchildren were over 21.r

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Procedural History

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The Commissioner of Internal Revenue determined a deficiency in Hunnewell's estate tax.r
The Commissioner argued that the value of the transferred property should be included in Hunnewell's gross estate under Section 811(c) of the Internal Revenue Code.r
The Tax Court considered the case based on a stipulation of facts submitted by both parties.r

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Issue(s)

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Whether the cash transfer made by the decedent was intended to take effect in possession or enjoyment at or after her death, making it includible in her gross estate under Section 811(c) of the Internal Revenue Code.

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Holding

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No, because the decedent intended to make an irrevocable transfer effective immediately, and her death did not affect the beneficiaries' enjoyment of the property. The possibility of reverter was too remote and did not cause the transfer to be one intended to take effect at or after death.

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Court's Reasoning

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The court distinguished this case from *Fidelity-Philadelphia Trust Co. v. Rothensies*

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(the *Stinson* case), which the Commissioner cited as precedent. The court noted that in *Stinson*, the transfer was more akin to a testamentary disposition.r
The court emphasized Hunnewell's intent to make an immediate and irrevocable gift to her grandchildren.r
The court highlighted that two-sixths of the property had already vested before Hunnewell's death, and all of it could have vested had she lived longer, demonstrating that her death had no effect on the transfer.r
The court reasoned that the possibility of the property reverting to Hunnewell's estate was contingent upon the unlikely event of all grandchildren dying before reaching 21.r
The court stated,

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