5 T.C. 650 (1945)

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When property is held jointly with right of survivorship, the portion includible in the decedent's gross estate is determined under Section 811(e) of the Internal Revenue Code, unless the transfer to joint ownership was made in contemplation of death, in which case Section 811(c) applies.

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Summary

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The Tax Court addressed whether jointly held property should be included in a decedent's gross estate. The Commissioner initially determined a deficiency based on the husband's failure to prove contribution to jointly owned property. Later, the Commissioner argued the property should be included under sections concerning transfers in contemplation of death or revocable transfers. The court held that Section 811(e) specifically governs jointly held property unless the transfer was made in contemplation of death. Finding the transfer was not made in contemplation of death, the court excluded the property from the gross estate.

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Facts

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Nathalie Koussevitsky died on January 11, 1942. About a month prior, she transferred securities from her individual agency account to a joint account with her husband, Serge, with right of survivorship. The securities in the account originally belonged to Serge. The Commissioner initially included a portion of these securities in Nathalie's gross estate, claiming Serge hadn't proven his contribution. Later, the Commissioner argued the entire account should be included under sections 811(c) or 811(d)(1).

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Procedural History

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The Commissioner issued a notice of deficiency. The estate petitioned the Tax Court contesting the inclusion of several jointly owned properties. The Commissioner amended the answer, asserting inclusion under different code sections. The Tax Court addressed whether the transfer to joint ownership was made in contemplation of death.

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Issue(s)

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1. Whether the securities transferred to the joint account are includible in the decedent's gross estate under Section 811(c) (transfers in contemplation of death) or 811(d)(1) (revocable transfers) of the Internal Revenue Code.

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2. Whether the transfer to the joint account was made in contemplation of death.

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3. Whether any part of a joint savings account is includible under Section 811(e).

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Holding

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1. No, because Section 811(e) specifically governs jointly held property unless the transfer was made in contemplation of death; and Section 811(d)(1) was not intended to apply to jointly held property.

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2. No, because the dominant motive for the transfer was to carry out the couple's original intention to hold the property jointly, a motive associated with life rather than death.

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3. No, because the funds in the joint savings account originally belonged to the husband.

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Court’s Reasoning

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The court reasoned that Section 811(e) provides specific rules for including jointly held property in a decedent’s gross estate, focusing on the origin of the property. The court stated that “Congress, in providing under section 811 of the code what property should be included in a decedent’s gross estate has, under subsection (e), legislated specifically with respect to joint interests and has specifically excepted certain property from inclusion in the gross estate.” If the transfer to joint ownership was made in contemplation of death, the property would be included under Section 811(c) as if the transfer never occurred. However, if the transfer wasn’t in contemplation of death, Section 811(e) prevails. The court found no indication that Section 811(d)(1), concerning revocable transfers, was intended to apply to jointly held property.

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The court then analyzed whether the transfer was made in contemplation of death, applying the “dominant motive” test from *United States v. Wells, 283 U.S. 102*. The court found the dominant motive was to formalize the couple’s intent to hold the property jointly, not to avoid estate taxes or in anticipation of death. The court gave weight to Mrs. Koussevitsky’s letter stating her “original intention was to hold this property jointly.” The court also noted that estate taxes were never discussed with the decedent, and she had no expectation of imminent death.

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Regarding the joint savings account, the court found the funds also originated from the husband, excluding it from the gross estate.

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Practical Implications

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Koussevitsky clarifies the interplay between different sections of the Internal Revenue Code regarding jointly held property. It emphasizes that Section 811(e) generally governs, providing a specific framework for determining includible portions based on contribution. However, it serves as a reminder that transfers to joint ownership made in contemplation of death will be scrutinized under Section 811(c), potentially leading to full inclusion in the gross estate. This case highlights the importance of documenting the source of funds and the intent behind creating

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joint tenancies, particularly when health concerns exist. Later cases will likely continue to apply the

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