***Leaman v. Commissioner*, 5 T.C. 699 (1945)**

A trust corpus is includible in a decedent's 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 death, even when the reversionary interest arises by operation of law and not by express reservation in the trust document.

Summary

The decedent, Thomas P. Leaman, created an irrevocable trust in 1911, reserving the income for life, with the corpus to be distributed to his surviving children and issue upon his death. The Tax Court addressed whether the trust corpus should be included in Leaman's gross estate for estate tax purposes under Section 811(c) of the Internal Revenue Code, which pertains to transfers intended to take effect at or after death. The court held that because the beneficiaries' possession and enjoyment of the trust corpus were contingent upon surviving the decedent, and a reversionary interest remained with the decedent by operation of law, the trust corpus was includible in his gross estate. This decision clarified that a reversionary interest, even if not explicitly stated in the trust, could trigger estate tax inclusion.

Facts

In 1911, Thomas P. Leaman, at age 31, established an irrevocable trust. The trust terms stipulated that Leaman would receive the income for life. Upon his death, the trust corpus was to be distributed to his surviving children and the surviving issue of any predeceased children. Leaman retained a testamentary power of appointment over up to one-third of the corpus in favor of his widow. At the time of the trust's creation, Leaman had two sons. He died in 1941, survived by his widow, one son, and a granddaughter. The value of the trust corpus at the time of his death was $90,406.51. The actuarial value of Leaman's reversionary interest just before his death was $1,139.12.

Procedural History

The Commissioner of Internal Revenue determined a deficiency in estate tax. The estate executor, Stanley Gray Horan, petitioned the United States Tax Court to contest this deficiency. The Tax Court was the initial and only court to rule on this matter in the provided text.

Issue(s)

1. Whether the corpus of the trust created by the decedent in 1911 is includible in his 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 his death," due to a reversionary interest remaining in the decedent by operation of law.

Holding

1. Yes. The Tax Court held that the trust corpus is includible in the decedent's gross estate because the transfer was intended to take effect in possession or enjoyment at or after his death due to the reversionary interest left in the decedent by operation of law.

Court's Reasoning

The court reasoned that the gifts to Leaman's son and grandchild were contingent upon them surviving him. Citing *Helvering v. Hallock*, the court emphasized the principle that transfers where the grantor retains a reversionary interest, making the beneficiaries' enjoyment contingent on the grantor's death, are includible in the gross estate. The court stated, "All involve dispositions of property by way of trust in which the settlement provides for return or reversion of the corpus to the donor upon a contingency terminable at his death." The court found the "vital factor" to be that the son's interest was "freed from the contingency of the property reverting to the settlor by the settlor's death."

The court distinguished this case from others involving "remoteness" of reversionary interests, noting that only two lives (son and grandchild) stood between Leaman and a potential reversion. Furthermore, the court addressed the fact that the reversionary interest arose by operation of law, not by express reservation. Quoting Paul, Federal Estate and Gift Taxation, the court asserted, "A string or tie supplied by a rule of law is as effective as one expressly retained in the trust instrument." The court explained that even without an explicit clause for reversion, if the remaindermen predeceased the grantor, the corpus would revert to the grantor's estate by operation of law. Therefore, the absence of an express reversion clause was not determinative; the dispositive effect of the trust was that the transfer was intended to take effect at Leaman's death.

Practical Implications

Leaman v. Commissioner reinforces that for estate tax purposes, the substance of a trust arrangement, rather than its explicit terms, governs taxability. It clarifies that a reversionary interest, even one arising implicitly from state law or the structure of the trust rather than explicit clauses, can cause inclusion of the trust corpus in the grantor's gross estate under Section 811(c) (now Section 2037 of the Internal Revenue Code). This case highlights the importance for estate planners to consider not only explicitly retained powers but also any reversionary interests that might arise by operation of law when drafting trust instruments. It serves as a reminder that transfers with conditions of survivorship tied to the grantor's death can trigger estate tax, even if the grantor did not actively intend to retain control or benefit.

