5 T.C. 881 (1945)

The corpus of a trust is includible in a decedent's gross estate for estate tax purposes where the decedent retained a possibility of reverter, meaning the trust principal could revert to the grantor if certain conditions were met, even if the trust was created before the enactment of estate tax laws.

Summary

The Tax Court addressed whether the corpus of two types of trusts should be included in the decedent's gross estate for estate tax purposes. One trust (Trust A) was created before the enactment of federal estate tax laws and allowed for the possibility of the trust principal reverting to the grantor. Five other trusts (Trusts B-F) were created later, with no explicit reversionary interest but a remote possibility of reversion by operation of law. The court held that the corpus of Trust A was includible in the gross estate due to the possibility of reverter, distinguishing it from a complete transfer. However, the corpora of Trusts B-F were not includible because the decedent retained no power and the possibility of reversion was too remote.

Facts

Harold I. Pratt created several trusts during his lifetime. Trust A, created in 1903, provided income to Pratt for life, then to his issue. If Pratt outlived Morris Pratt and Mary Richardson Babbott (the measuring lives), the principal would revert to him. Trusts B through F, created between 1918 and 1932, were for the benefit of family members with remainders over. The trust instruments for Trusts B-F did not reserve any right, power, benefit, or estate to the grantor, and no part of the property could revert to him or his estate, except by operation of law if the trusts failed for lack of beneficiaries. Pratt died in 1939.

Procedural History

The Commissioner of Internal Revenue determined a deficiency in Pratt's estate tax, including the corpora of all the trusts in the gross estate. Pratt's executors, United States Trust Company of New York and Harriet Barnes Pratt, petitioned the Tax Court for a redetermination. The Tax Court upheld the inclusion of Trust A but reversed the inclusion of Trusts B-F.

Issue(s)

1. Whether the value of the corpus of Trust A, created before the enactment of estate tax laws but containing a reversionary interest, is includible in the decedent's gross estate under Section 811(c) of the Internal Revenue Code.
2. Whether the remainders in the corpora of Trusts B-F, created after the enactment of estate tax laws but with no retained powers and only a remote possibility of reversion by operation of law, are includible in the decedent's gross estate under Section 811(c) of the Internal Revenue Code.

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Holding

1. Yes, because the decedent retained a possibility of reverter in Trust A, making the transfer one intended to take effect in possession or enjoyment at or after his death.
2. No, because the decedent retained no powers over Trusts B-F, and the possibility of reversion was too remote to justify inclusion in the gross estate.

Court's Reasoning

The court relied on *Helvering v. Hallock* and related cases, which established that transfers intended to take effect at or after death are includible in the gross estate. The court distinguished *Nichols v. Coolidge*, where the grant was complete and absolute. In Trust A, Pratt retained an interest through the possibility of reverter, which was cut off by his death. This made the transfer incomplete until his death, falling under the rule of *Klein v. United States*. Regarding Trusts B-F, the court emphasized that Pratt retained no right to revoke, alter, or amend the trusts. The transfers were absolute, and the remote possibility of reversion by operation of law was insufficient to warrant inclusion in the gross estate. The court cited numerous precedents supporting the exclusion of trust property where the grantor retained no significant control or interest.

Practical Implications

This case highlights the importance of carefully structuring trusts to avoid estate tax implications. Even a remote possibility of reverter can cause the trust corpus to be included in the grantor's gross estate. Attorneys must analyze trust instruments to determine if the grantor retained any interest that could cause the transfer to be considered incomplete until death. It reaffirms that trusts created before estate tax laws can be subject to those laws if the grantor retained certain interests. Subsequent cases applying this ruling focus on the degree and nature of retained interests to determine includibility in the gross estate. The case informs estate planning by emphasizing the need for complete and irrevocable transfers to minimize estate tax liability.

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