5 T.C. 1276 (1945)

When a decedent retains a contingent power of appointment over the corpus of a trust until death, the entire value of the trust corpus is includible in the decedent's gross estate for estate tax purposes.

Summary

Martha Collins created a trust in 1919, later amended in 1922, retaining income for life. Upon her death, income was to be divided among her husband and two sons for life, then corpus to their issue. If her sons and husband predeceased her, she held the power to designate the corpus's disposition by will. The Tax Court held that the entire value of the trust corpus was includible in her gross estate under Section 811(c) of the Internal Revenue Code, citing *Fidelity-Philadelphia Trust Co. v. Rothensies*, because Collins retained a contingent power of appointment until her death.

Facts

In 1919, Martha Collins established a trust. The trust was initially revocable but became irrevocable after her husband's death in 1927. As amended in 1922, the trust provided income to Collins for life, then income to her husband and two sons for life, with the corpus going to their issue upon their deaths. If either son predeceased Collins without issue, his share would go to the other son's trust. A key provision stipulated that if both sons and husband predeceased Collins, she could designate the disposition of the trust corpus through her will. One son predeceased Collins without issue. Collins died in 1941, survived by her other son, Seward Collins. Her will's residuary clause effectively left the trust corpus in trust for Seward Collins and his descendants.

Procedural History

An estate tax return was filed, electing to value the gross estate as of one year after Collins's death. The Commissioner of Internal Revenue determined a deficiency, arguing the trust corpus was includible in the gross estate. The Tax Court addressed the issue of whether the trust corpus should be included, with other matters to be resolved later under Rule 50.

Issue(s)

1. Whether the value of the trust principal is includible in the decedent's gross estate under Section 811(c) of the Internal Revenue Code because the decedent retained the right to designate by will the persons who would possess or enjoy the property if her son predeceased her?

Holding

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1. Yes, because the decedent retained a contingent power of appointment over the trust corpus until her death, making the entire value includible in her gross estate.

Court’s Reasoning

The Tax Court relied heavily on *Fidelity-Philadelphia Trust Co. v. Rothensies*, finding the facts substantially similar. In both cases, the decedent retained a contingent power of appointment that could alter the disposition of the trust property. The court emphasized that

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