Kaufmann v. Commissioner, 4 B.T.A. 456 (1926)

To establish a valid gift inter vivos, the donor must demonstrate a clear and unmistakable intention to absolutely and irrevocably divest themselves of title, dominion, and control over the subject matter of the gift in the present.

Summary

This case addresses whether Edgar J. Kaufmann made a valid gift of stock to his siblings in 1921 or 1925, impacting the tax basis. The Board of Tax Appeals ruled that the gifts occurred in 1925. Edgar's letters to his siblings and the corporation indicated he retained control over the stock and dividends. The court emphasized that a valid gift requires a clear intent to relinquish control and dominion. Because Edgar reserved rights, such as directing dividend payments and expecting the stock to be settled with his estate upon his death, the court found the essential element of present donative intent lacking in 1921.

Facts

1. In 1921, Edgar J. Kaufmann transferred 1,000 shares of stock to his brother, Oliver, and 1,000 shares to his sister, Martha.
2. The stock was pledged as collateral for a loan Edgar obtained for his father's estate.
3. Edgar informed Martha that he was transferring the stock to her name but directed that dividends be sent to her quarterly, stating she shouldn't feel obligated to return them.
4. He instructed Martha to settle the stock with his estate if he died.
5. Edgar sent a letter to Kaufmann Department Stores, Inc., directing them to pay dividends as per his instructions until further notice.
6. Oliver received the dividend payments but no written assignment of shares.

Procedural History

The Commissioner of Internal Revenue determined deficiencies based on a 1925 gift date. The Kaufmanns petitioned the Board of Tax Appeals, arguing the gift occurred in 1921, impacting the stock's basis and thus the deficiency calculation. The Board of Tax Appeals ruled in favor of the Commissioner.

Issue(s)

1. Whether Edgar J. Kaufmann demonstrated a clear and unmistakable intention to absolutely and irrevocably divest himself of title, dominion, and control of the stock in 1921, thus constituting a valid gift inter vivos at that time?

Holding

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1. No, because Edgar’s actions and communications indicated that he retained control over the stock and its dividends, failing to demonstrate a present intent to relinquish dominion and control over the shares in 1921.

Court’s Reasoning

The court relied on the elements of a valid inter vivos gift as outlined in Adolph Weil, 31 B. T. A. 899, emphasizing the need for a clear and unmistakable intention to irrevocably divest oneself of control. The court found that Edgar’s letter to Martha suggested he retained control: “Do not want you to feel in the least obliged to return these dividends to me because I know that this Thousand Dollars every quarter will come in handy.” The court reasoned that there was no reason to reassure her not to feel obligated if there was an absolute gift of shares to her. Also, his instruction to Martha to settle the stock with his estate in the event of his death further demonstrated his retained control. Edgar’s letter to the corporation, directing dividend payments

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