7 T.C. 1178 (1946)

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A grantor who retains substantial control over trust property, particularly stock in family-owned corporations from which they derive economic benefits, may be taxed on the trust income under Section 22(a) of the Internal Revenue Code, as the grantor has not relinquished sufficient dominion and control over the transferred property.

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Summary

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David L. Loewus, the petitioner, created three trusts for his minor children, naming himself as trustee. The trusts held stock in two corporations where Loewus served as president. The IRS assessed deficiencies, arguing that Loewus should be taxed on the trust income under Section 22(a) because he retained substantial control over the trust property. The Tax Court agreed with the IRS, holding that Loewus's broad powers as trustee, coupled with his ongoing economic benefits from the corporations, meant he had not relinquished sufficient control over the trust assets, thus making the trust income taxable to him.

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Facts

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Loewus created three trusts for the benefit of his children, naming himself as trustee. The trust agreements granted Loewus broad powers, including the power to manage trust property as if he were the absolute owner, and to accumulate or distribute income at his discretion. The trusts primarily held stock in two corporations, a paint company and a decorating company, where Loewus served as president and received a salary. Over time, the trusts acquired significant portions of the companies' stock and real estate used by the businesses. No distributions of income were made to beneficiaries during the years in question; instead, income was accumulated and reinvested in the companies.

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Procedural History

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The Commissioner of Internal Revenue determined deficiencies in Loewus's income tax for 1940 and 1941, asserting that the trust income was taxable to him. Loewus petitioned the Tax Court for a redetermination. The case was submitted to the Tax Court on a stipulation of facts.

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Issue(s)

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Whether the income of three trusts, of which the petitioner was the grantor and trustee, is taxable to the petitioner under Section 22(a) of the Internal Revenue Code due to the extent of control retained over the trust property and the economic benefits derived therefrom.

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Holding

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Yes, because the grantor-trustee retained broad powers over the trust property, including stock in family-controlled corporations, and continued to derive economic benefits from those corporations, thereby failing to relinquish sufficient control over the transferred property to avoid taxation under Section 22(a).

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Court's Reasoning

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The court relied on the principle established in *Helvering v. Clifford*, finding that Loewus retained substantial control over the trust property. The court emphasized Loewus's broad powers as trustee, including the ability to vote stock in favor of himself as a corporate officer, manage the trust property as if he were the owner, and control the distribution or accumulation of income. The court noted that the trusts held significant stock in corporations from which Loewus received a salary, indicating a retention of corporate control through the trusts. The court

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distinguished *Alma M. Myer*, because in that case, the grantor-trustee did not have any personal or business interest in the corporation, the stock of which was held by the trust. The court found that Loewus failed to refute the presumption that he enjoyed substantial economic benefits from the trusteed stock. The court cited *Anna Morgan* and *Louis Stockstrom*, emphasizing that the degree of control exercised by the grantor-trustee is determinative. The court stated, “It is the degree of control which is determinative.”

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