***Estate of Loudon v. Commissioner, 6 T.C. 72 (1946)***

The value of a trust corpus is included in a decedent's gross estate under Section 811(c) of the Internal Revenue Code when the decedent retained a reversionary interest in the trust property, making the transfer intended to take effect in possession or enjoyment at or after the decedent's death.

**Summary**

The Tax Court addressed whether the value of three irrevocable trusts created by Charles F. Loudon should be included in his gross estate for federal estate tax purposes. Loudon had established trusts with income payable to his daughter and grandson, with a reversionary clause stipulating that the trust corpus would revert to him if he survived them. The Commissioner argued that this reversionary interest made the trusts includible in the gross estate. The Tax Court agreed with the Commissioner, holding that the trusts were intended to take effect in possession or enjoyment at or after Loudon's death due to the retained reversionary interest, relying heavily on its prior decision in Estate of John C. Duncan.

**Facts**

Charles F. Loudon created three irrevocable trusts during his lifetime. Each trust provided income to his daughter and grandson. Critically, each trust indenture contained a provision that the corpus of the trust would revert to Loudon if he survived his daughter and grandson. The Commissioner sought to include the value of the corpora of these trusts in Loudon's gross estate for federal estate tax purposes.

**Procedural History**

The Commissioner determined a deficiency in the estate tax of Charles F. Loudon, arguing that the value of the three trusts should be included in the gross estate. The Estate of Loudon petitioned the Tax Court for a redetermination of the deficiency.

**Issue(s)**

Whether the values of three irrevocable trusts created by Charles F. Loudon are includible in his gross estate for federal estate tax purposes under Section 811(c) of the Internal Revenue Code, because of a reversionary interest retained by the decedent.

**Holding**

Yes, because the decedent retained a contingent interest in the trust property until his death, constituting a transfer intended to take effect in possession or enjoyment at or after the decedent's death.

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## Court’s Reasoning

The court relied on the principle established in *Fidelity-Philadelphia Trust Co. (Stinson Estate) v. Rothensies, 324 U. S. 108*, and *Commissioner v. Field, 324 U. S. 113*, as well as its prior decision in *Estate of John C. Duncan, 6 T. C. 84*, finding the Duncan case similar on its facts. The court emphasized that Loudon’s express reservation of a reversionary interest brought the case within the ambit of cases requiring inclusion of trust assets in the gross estate. The court stated, “Such express reservation constituted the retention by the decedent of a contingent interest in the trust property until his death. Therefore said transfers in trust constituted transfers intended to take effect in possession or enjoyment at or after decedent’s death within the meaning of section 811 (c) of the Internal Revenue Code.” The Tax Court distinguished the case from *Frances Biddle Trust, 3 T. C. 832*, and similar cases, noting that in those cases, the grantor had done everything possible to relinquish any reversionary interest, whereas Loudon specifically retained such an interest.

## Practical Implications

This case reinforces the importance of carefully considering the estate tax implications of retaining reversionary interests in trusts. Attorneys drafting trust documents must advise clients that retaining such interests can lead to the inclusion of trust assets in the grantor’s gross estate, increasing the estate tax liability. This decision emphasizes that even contingent reversionary interests can trigger estate tax inclusion. Subsequent cases analyzing similar trust provisions must consider the degree to which the grantor has relinquished control and the likelihood of the reversion occurring. This case provides a clear example of how a seemingly remote possibility of reversion can result in significant estate tax consequences.

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