Estate of Loudon v. Commissioner, 6 T.C. 78 (1946)

When a grantor retains a reversionary interest in a trust, the trust corpus is includible in the grantor's gross estate for federal estate tax purposes if the beneficiaries' possession or enjoyment of the property is contingent upon surviving the grantor.

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. Each trust contained a provision that the corpus would revert to Loudon if he survived his daughter and grandson. The Commissioner argued that this reversionary interest made the trusts includible in the gross estate. The court agreed with the Commissioner, holding that because the beneficiaries' enjoyment was contingent on surviving Loudon, the trusts were intended to take effect at or after his death and were thus includible under Section 811(c) of the Internal Revenue Code.

Facts

Charles F. Loudon created three irrevocable trusts. Each trust provided income to named beneficiaries during their lives. Critically, each trust indenture contained an express reservation stating that the corpus of each trust would revert to Loudon if he survived his daughter and his 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. The Estate of Loudon petitioned the Tax Court for a redetermination of the deficiency. The Tax Court reviewed the case to determine whether the value of the trust corpora was includible in the gross estate under Section 811(c) of the Internal Revenue Code.

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 the trust indentures contained an express reservation by the decedent that the corpus of each trust should revert to him if he survived his daughter and his grandson.

Holding

Yes, because the express reservation constituted the retention by the decedent of a contingent interest in the trust property until his death, and therefore, the transfers

© 2025 SCOTUSreports.com. All rights reserved.

in trust were intended to take effect in possession or enjoyment at or after the decedent's death within the meaning of Section 811(c) of the Internal Revenue Code.

Court's Reasoning

The court relied heavily on its prior decision in *Estate of John C. Duncan, 6 T.C. 84*, which also involved a trust with a reversionary interest. The court distinguished cases like *Frances Biddle Trust, 3 T.C. 832*, where the grantor had taken steps to eliminate any possibility of reversion, with the only possibility of reversion occurring upon a complete failure of the grantor's line of descent. In this case, the court emphasized the specific provision in the trust indenture that provided for a reversion to the grantor if he survived his daughter and grandson, irrespective of other descendants. The court stated, "We see no difference in principle between the foregoing provisions of the trust in the instant case and the controlling provisions of the trust in the *Duncan* case…They seem to be in all essential respects the same, so far as the survivorship issue is concerned." Because the beneficiaries' enjoyment of the trust property was contingent upon surviving the grantor, the court concluded that the transfer was intended to take effect at or after the grantor's death, triggering inclusion in the gross estate under Section 811(c).

Practical Implications

This case highlights the critical importance of carefully drafting trust instruments to avoid unintended estate tax consequences. The presence of a reversionary interest, even a contingent one, can cause the trust corpus to be included in the grantor's gross estate. Attorneys should advise clients creating trusts to consider the estate tax implications of retaining any control or interest in the trust property. Subsequent cases have distinguished *Estate of Loudon* by focusing on the remoteness of the reversionary interest and whether the grantor took sufficient steps to relinquish control over the trust property. The case serves as a reminder that the substance of the trust agreement, rather than its form, will determine its tax treatment. Avoiding reversionary interests, or making them as remote as possible, remains a key strategy for excluding trust assets from the grantor's taxable estate.

© 2025 SCOTUSreports.com. All rights reserved.