Estate of Lifer B. Wade v. Commissioner, 47 B.T.A. 21 (1947)

Life insurance proceeds are includable in a decedent's gross estate under Section 811(g) of the Internal Revenue Code if the decedent possessed any legal incidents of ownership in the policy at the time of death, including a reversionary interest.

Summary

The Board of Tax Appeals addressed whether life insurance proceeds were includible in the decedent's gross estate. The Commissioner argued for inclusion under Section 811(g) and (c), asserting the decedent retained incidents of ownership. The estate argued the wife was the sole owner. The Board held the proceeds were includible because the decedent's death was necessary to terminate his potential reversionary interest, constituting a legal incident of ownership, despite the wife's ability to alter the policy terms.

Facts

Lifer B. Wade (decedent) died on January 10, 1941. An Aetna life insurance policy existed on his life. His wife was the original beneficiary. The wife later made endorsements on the policy, extending benefits to her son and daughter, but did not eliminate the possibility of reversion to the insured (decedent). The Commissioner included the insurance proceeds in the gross estate, less the statutory exemption.

Procedural History

The Commissioner determined a deficiency in the estate tax. The estate petitioned the Board of Tax Appeals for redetermination. The Board initially issued an opinion, then supplanted it with this opinion after review.

Issue(s)

Whether the proceeds of the life insurance policy on the decedent's life, payable to a beneficiary at his death, minus the $40,000 statutory exemption, are includible in the gross estate under Section 811(g) of the Internal Revenue Code because the decedent possessed any "legal incidents of ownership" in the policy at the time of his death?

Holding

Yes, because the decedent possessed a legal incident of ownership in the policy at the time of his death. Specifically, his death was necessary to terminate his interest in the insurance, as the proceeds would become payable to his estate, or as he might direct, should the beneficiary predecease him.

Court's Reasoning

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The Board reasoned that while the wife had the power to change the beneficiary or surrender the policy, she did not exercise that power before the decedent's death. The Board cited *Helvering v. Hallock*, 309 U.S. 106 (1940), which repudiated prior decisions and established that if an inter vivos transfer includes a provision for reversion to the grantor if the grantee predeceases him, the property's value is includable in the grantor's gross estate. The Board also relied on *Goldstone v. United States*, 325 U.S. 687 (1945), stating, "The string that the decedent retained over the proceeds of the contract until the moment of his death was no less real or significant, because of the wife's unused power to sever it at any time." The court emphasized that the amendment of Regulations 80 by T.D. 5032 was to conform to court decisions. The Board stated: "We think that under the rationale of the three preceding cases the decedent possessed a legal incident of ownership if, as here, his death was necessary to terminate his interest in the insurance, 'as, for example if the proceeds would become payable to his estate, or payable as he might direct, should the beneficiary predecease him,' regardless of when Treasury Regulations 80 was amended."

Practical Implications

This case reinforces the principle that even a contingent reversionary interest retained by the insured can cause life insurance proceeds to be included in the gross estate for estate tax purposes. Estate planners must carefully consider the legal incidents of ownership retained by the insured, even indirectly, when structuring life insurance policies. The case demonstrates the importance of ensuring that the insured completely relinquishes control and potential benefits from the policy. It clarifies that the mere ability of the beneficiary to alter the policy does not negate the insured's reversionary interest if that power is not exercised before the insured's death. Later cases applying this ruling emphasize the need for a thorough review of policy terms to avoid unintended estate tax consequences. This case serves as a reminder that estate tax law focuses on substance over form, considering the practical control and economic benefits retained by the decedent.

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