7 T.C. 1151 (1946)

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A transfer in trust constitutes a completed gift for gift tax purposes when the donor relinquishes control over the property, even if the trust income is taxed to the donor under the grantor trust rules, and the value of a gift includes the present value of the right to receive income and potential distributions of principal when the trustee has the discretion to make such distributions.

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Summary

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Barbara Lockard created a trust in 1938, granting income to her husband for six years, after which the property would revert to her. In 1941, she amended the trust to provide her husband with lifetime income and granted the trustee discretion to distribute up to $3,000 annually from the principal for his support. The Tax Court addressed whether the initial transfers in 1938 and 1939 were completed gifts despite the trust income being taxed to Lockard and how to value the 1941 gift. The court held that the transfers were completed taxable gifts when made and that the 1941 gift's value included the right to receive $3,000 annually from the principal, plus interest on the diminishing fund.

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Facts

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In 1938, Barbara Lockard transferred property into a trust, with income payable to her husband, Derwood Lockard, until March 31, 1944, after which the principal would revert to Barbara. In 1939, she added more property to the trust. On December 31, 1941, Barbara amended the trust, giving Derwood lifetime income and allowing the trustee to distribute up to $3,000 annually from the principal for his comfortable maintenance. Upon Derwood's death, the principal would revert to Barbara, if living, or her estate. The IRS taxed the trust income to Barbara under the rule of *Helvering v. Clifford* for the years 1938-1941.

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Procedural History

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The Commissioner of Internal Revenue determined a deficiency in Lockard's gift tax liability for 1941. Lockard challenged the deficiency, arguing that the initial transfers were not completed gifts and disputing the valuation of the 1941 gift. The Tax Court heard the case to determine the gift tax implications of the trust transfers.

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Issue(s)

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1. Whether the transfers in trust in 1938 and 1939 were completed gifts for gift tax purposes, considering the trust income was taxed to the grantor under Section 22(a) and the rule of *Helvering v. Clifford*.

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2. What is the proper valuation for gift tax purposes of the 1941 transfer, considering the life income interest and the trustee's power to distribute corpus up to $3,000 annually for the life tenant's support?

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Holding

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1. Yes, because the transfers in 1938 and 1939 were completed gifts when made, notwithstanding that some of the trust income had been taxed to the grantor under the *Clifford* rationale.

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2. The value of the gift is the present value of the right to receive $3,000 per year from the principal, plus interest on the diminishing fund, because the donor relinquished control over the property, irrevocably committing the corpus to the beneficiary's benefit.

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Court's Reasoning

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The court relied on its prior decision in *James A. Hogle*, which held that taxing trust income to the grantor does not automatically mean the transfer is incomplete for gift tax purposes. The court emphasized that gift and income taxes are not closely integrated. Regarding the valuation of the 1941 gift, the court cited *Robinette v. Helvering* and *Smith v. Shaughnessy*, stating that the

