7 T.C. 1280 (1946)

The value of property transferred to a trust is includible in a decedent's gross estate under Section 811(c) of the Internal Revenue Code if the decedent retained the right to have the trust corpus used for her benefit, effectively postponing the complete transfer of the property until her death; additionally, the value is includable under Section 811(d)(2) if the decedent retained the power, in conjunction with other trustors, to revoke the trust and alter the enjoyment of the trust property.

Summary

Lelia Coulter transferred property to a trust in 1920, retaining the right to income and potential corpus invasion for her support. The Tax Court addressed whether the value of the trust corpus should be included in her gross estate for estate tax purposes. The court held that the transfer was not made in contemplation of death but was includible under Section 811(c) because Lelia retained the right to have the corpus used for her benefit, postponing complete transfer until death. It was also includible under Section 811(d)(2) as she retained a power to revoke the trust with other grantors, affecting enjoyment of the property. The court also determined the fair market value of certain corporate stocks within the trust.

Facts

Lelia Coulter, along with her three children, created a trust in 1920, contributing property she inherited from her husband. The trust terms provided Lelia with $200 per month from net income and additional sums at the trustee's discretion for her support. The trustee could also invade the corpus if the income was insufficient for her needs. The trust also included a provision allowing the trustors to jointly revoke the trust. Upon Lelia's death in 1942, the Commissioner of Internal Revenue sought to include a portion of the trust corpus in her gross estate.

Procedural History

The Commissioner determined an estate tax deficiency, arguing that the transfer to the trust was made in contemplation of death or intended to take effect at or after death. The executor of Lelia's estate, Joel Wright Coulter, challenged the deficiency in the United States Tax Court.

Issue(s)

1. Whether the transfer of property to the trust by the decedent was made in contemplation of death or intended to take effect in possession or enjoyment at or after death, within the meaning of Section 811(c) and (d) of the Internal Revenue Code.

2. Whether the Commissioner erred in determining the value of certain corporate stocks contained in the transfer.

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Holding

1. No, the transfer was not made in contemplation of death. Yes, one-half of the value of the corpus is includible in the gross estate because the decedent retained the right to have corpus used for her benefit, postponing the complete transfer until death; and because the decedent retained the power, in conjunction with the three children-trustors, to revoke the trust and thus change the enjoyment of the trust property.

2. The Commissioner's valuation of the stocks was partially incorrect; the fair market value of the stock was determined to be lower than the Commissioner's assessment.

Court's Reasoning

The court reasoned that because Lelia retained the right to have the corpus used for her benefit during her life, this postponed the complete and ultimate transfer of the property until her death, bringing it within the provisions of Section 811(c) of the Internal Revenue Code. The court distinguished this case from those where the trustee's discretion is uncontrolled by external standards. Here, the trust instrument contemplated the trustee *should* invade the corpus if the decedent's needs were not met by income. The court also found that Lelia, in conjunction with her children, retained the power to revoke the trust. Even though the trust specified how the assets would be distributed upon termination, the fact that Lelia could alter *who* ultimately received those assets meant it was still includible in the estate. Quoting *Commissioner v. Holmes Estate, 326 U.S. 480*, the court stated that "one who has the power to terminate contingencies upon which the right of enjoyment is staked, so as to make certain that a beneficiary will have it who may never come into it if the power is not exercised, has power which affects not only the time of enjoyment but also the person or persons who may enjoy the donation." The court also determined the fair market value of the stocks based on an analysis of the company's assets, liabilities, earnings, and restrictions on the sale of the stock.

Practical Implications

The *Coulter* case illustrates that even broad discretionary powers granted to a trustee can be interpreted as retaining a right to benefit from trust assets, leading to estate tax inclusion. The case highlights the importance of carefully drafting trust instruments to avoid retaining powers or interests that could trigger inclusion in the grantor's gross estate. Trust instruments in California, and potentially other jurisdictions, should avoid giving grantors powers that allow them to alter who ultimately benefits from the trust. This decision reinforces the principle that the ability to affect *who* enjoys the property, not just *when* they enjoy it, can trigger estate tax inclusion. Subsequent cases have cited *Coulter* to underscore the importance of examining the substance of retained powers when determining estate tax liabilities and valuing closely held stock.

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