8 T.C. 72 (1947)

r
r

A donee exercising a power of appointment granted in a will to transfer assets to a third party does not incur gift tax liability because the assets are considered a transfer from the original testator, not a gift of the donee's property.

r
r

Summary

r

Florence Walston was granted a power of appointment in her father's will, allowing her to distribute income and principal from a trust (Share C) to individuals of her father's blood. Walston appointed her brother, Lewis, to receive income from Share C, initially retaining the power to revoke the appointment. Later, she irrevocably appointed a portion of the principal and remaining income to Lewis. The Commissioner of Internal Revenue argued these appointments constituted taxable gifts from Walston to Lewis. The Tax Court ruled that Walston's actions were an exercise of her power of appointment and a transfer of her father's estate, not a gift of her own property, and thus not subject to gift tax.

r
r

Facts

r

r
David Einstein's will created three trusts (Shares A, B, and C).r
Florence Walston (petitioner) was granted a lifetime interest in Share A and a power of appointment over Share C, which allowed her to distribute income and principal to individuals of David Einstein's blood.r
David Einstein intended Share C to benefit his son, Lewis, but structured the will to give Florence discretion over its distribution.r
In 1920, Florence appointed Lewis to receive income from Share C, retaining the power to revoke.r
In 1938, Florence irrevocably appointed one-half of the capital of Share C to Lewis and the income from the other half for his life, relinquishing all powers of revocation.r

r

© 2025 SCOTUSreports.com. All rights reserved.

r

Procedural History

r

r
The Commissioner assessed gift tax deficiencies against Florence for the years 1932-1938, arguing the transfers to Lewis constituted taxable gifts.r
Florence petitioned the Tax Court for a redetermination of the deficiencies.r
The Commissioner filed an amended answer, alleging an error in the original assessment and seeking an increased deficiency.r

r
r

Issue(s)

r

r
Whether Florence made annual gifts to Lewis from 1932-1938 as a result of distributing income from Share C pursuant to a revocable appointment?r
Whether the irrevocable appointment of one-half the corpus of Share C and the income from the remaining one-half constituted a gift by Florence of her right to the income from Share C for her life?r

r
r

Holding

r

r
No, because Florence was exercising a power of appointment granted by her father’s will, not gifting her own property.r
No, because Florence was acting as a conduit for her father’s wishes, not making a gift of her own lifetime interest in the income.r

r
r

Court’s Reasoning

r

r

© 2025 SCOTUSreports.com. All rights reserved.

The court emphasized the intent of David Einstein, the testator, to benefit Lewis through Share C. Florence’s power of appointment was a mechanism to fulfill this intent.r
The court interpreted the will as granting Florence a power to distribute the income from Share C, effectively limiting her own potential life interest.r
The court noted that a

© 2025 SCOTUSreports.com. All rights reserved.