Estate of Edward E. Bradley, 9 T.C. 145 (1947)

A decedent's retained power to modify, alter, or amend a trust agreement does not cause inclusion of the trust corpus in the decedent's gross estate under Section 811(d)(2) of the Internal Revenue Code if the power does not extend to changing the beneficial interests of the trust.

Summary

The Tax Court addressed whether the value of a decedent's community one-half interest in properties within a trust was includible in his gross estate under Section 811(d) of the Internal Revenue Code. The decedent had created the trust in 1929, reserving the power to modify or amend the agreement but expressly denying himself the power to change the beneficial interests. The court held that because the decedent's amendments did not effectively alter the beneficial interests of the trust, the trust corpus was not includible in his gross estate.

Facts

Edward E. Bradley created a trust on July 8, 1929. The trust agreement reserved to the decedent the power to modify, alter, or amend the agreement, but it expressly denied him the power to change the beneficial interests. The decedent executed several amendments to the trust, including one on March 4, 1936, which attempted to remove the power of appointment from each grandchild, leaving them only the right to receive income during their life and one-third of the principal at age thirty-five. Other amendments related to administrative changes or investment direction.

Procedural History

The Commissioner initially determined a deficiency, contending the trust transfer was includible under Section 811(c) of the Internal Revenue Code. This position was later withdrawn. The Commissioner then argued for inclusion under Section 811(d)(2), asserting the decedent retained the power to alter or amend the trust, materially changing the beneficial interests. The Tax Court heard the case to determine the validity and effect of the trust amendments.

Issue(s)

Whether the decedent's retained power to amend the trust agreement caused the trust corpus to be includible in his gross estate under Section 811(d)(2) of the Internal Revenue Code, given that the trust agreement purportedly restricted the power to change beneficial interests.

Holding

No, because the decedent's amendments, particularly the one in 1936, which attempted to change the power of appointment, were beyond his reserved powers

© 2025 SCOTUSreports.com. All rights reserved.

and therefore ineffective in altering the beneficial interests of the trust; therefore, the trust corpus is not includible in the decedent's gross estate under Section 811(d)(2).

Court's Reasoning

The court reasoned that the decedent's power to modify, alter, or amend the trust was limited by the express prohibition against changing beneficial interests. The court determined that the 1936 amendment, which attempted to remove the power of appointment from the grandchildren, constituted an attempt to change beneficial interests, which was beyond the decedent's reserved powers. Citing *Schoellkopf v. Marine Trust Co.*, the court defined "beneficial interest" as any right, whether present or future, vested or contingent, to income or principal of the trust fund. Because the 1936 amendment was an invalid attempt to alter beneficial interests, it was considered a nullity. The court also cited *Guitar Trust Estate v. Commissioner* and *Boyd v. United States*, which support the principle that a trust settlor can exercise no powers of amendment or control except as reserved in the trust instrument. As the decedent did not have the power to change the enjoyment of the trust at the time of his death, the trust corpus was not includible in his gross estate.

The court stated, "[W]hile the intent of the parties is a prime factor in construing such an instrument and in the case of doubt this is accorded high evidentiary value, yet the instrument itself, where it is sufficiently plain, must determine its character and scope."

Practical Implications

This case clarifies that a settlor's retained powers to amend a trust are strictly construed according to the terms of the trust agreement. If the power to amend is explicitly limited to administrative changes and excludes the power to alter beneficial interests, attempted amendments affecting those interests will be deemed invalid. This ruling emphasizes the importance of carefully drafting trust agreements to clearly define the scope of any retained powers. It also illustrates that the mere attempt to exercise a power not actually possessed does not retroactively create that power for estate tax purposes. Attorneys should advise clients that retaining overly broad amendment powers can lead to estate tax inclusion, while carefully limited powers will not.

© 2025 SCOTUSreports.com. All rights reserved.