8 T.C. 1200 (1947)

A gift of income in trust to named beneficiaries is a present interest, eligible for the gift tax exclusion, when the beneficiaries' rights to the income are immediate and ascertainable, and the possibility of additional beneficiaries being added to the class is negligible.

Summary

The Tax Court addressed whether gifts in trust to the donor's six adult children qualified for the gift tax exclusion under Section 1003(b)(3) of the Internal Revenue Code. The trust provided a fixed monthly income to the donor's wife and the remaining income to his children. The Commissioner argued the gifts to the children were future interests because after-born children might dilute the existing beneficiaries' share. The court held that the gifts to the six named children were present interests, eligible for the exclusion, because the donor intended to benefit only his living children and the income stream to each was ascertainable.

Facts

- The donor established a trust funded by a commercial building that generated monthly rental income.
- The trust agreement directed the first $200 of monthly net income to the donor's wife for life, with the remaining income divided equally among his children for life.
- At the time of the trust's creation in November 1944, the donor had six adult children, ranging in age from 33 to 44. The donor was of advanced age and died one year later.
- The donor executed a will on the same day as the trust agreement.

Procedural History

- The Commissioner determined a gift tax deficiency, allowing only one exclusion for the gift to the wife but disallowing exclusions for the gifts to the children.
- The donor's estate petitioned the Tax Court for a redetermination of the deficiency.
- The Commissioner amended the answer, alleging an increased value for the gifted property, but failed to provide evidence supporting this increased valuation at trial.

Issue(s)

1. Whether the gifts of trust income to the donor's six children were gifts of present interests in property, eligible for the gift tax exclusion under Section 1003(b)(3) of the Internal Revenue Code.
2. What was the present value of the gifts of income to the six children?

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Holding

1. Yes, because the donor intended the gifts to benefit his six living children, and the gifts represented a present right to income.
2. The trust income available for distribution was $3,000 per annum, with $100 per year for life allocated to each child.

Court's Reasoning

The court reasoned that the donor's intent, as evidenced by the circumstances surrounding the trust's creation, indicated that the gifts were intended for his six living children, not a class of children that could include after-born children. The court stated, "Respondent's contention that after-born children as well as the six children living on the date of the gift were entitled under the terms of the trust agreement to share in the income must therefore be rejected." The court emphasized that the gifts to the children were structured identically to the gift to the wife, which the Commissioner conceded was a present interest. Applying the precedent set in *Commissioner v. Lowden, 131 F.2d 127*, the court concluded that if the gift to the wife was a present interest, so too were the gifts to the children. Further, the court found based on expert testimony and earnings records that the trust would generate at least $3,000 per year, ensuring at least $100 annually per child.

Practical Implications

This case provides clarity on determining present vs. future interests in trust income for gift tax purposes. It emphasizes that courts will examine the donor's intent and the specific terms of the trust agreement to determine whether the beneficiaries have an immediate and ascertainable right to income. This ruling is useful when drafting trust documents to ensure the gifts to beneficiaries qualify for the annual gift tax exclusion. The case highlights the importance of clearly defining the beneficiaries and ensuring that the income stream is reasonably predictable. This case has been cited in subsequent cases addressing similar issues, reinforcing the principle that the donor's intent and the nature of the beneficiaries' rights are paramount in determining whether a gift qualifies as a present interest.

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