9 T.C. 145 (1947)

A grantor's retained interest in a trust, or a transfer that takes effect at death, can cause the trust's assets to be included in the grantor's gross estate for estate tax purposes.

Summary

The Tax Court addressed whether the corpora of two trusts created by Edson Bradley should be included in his gross estate under Section 302(c) of the Revenue Act of 1926, as amended. The court held that the corpus of the 1918 trust was includible because Bradley retained the right to income for a period not ending before his death. The corpus of the 1917 trust was also includible because the transfer took effect at Bradley's death, as his daughter's right to the principal was contingent on her surviving him. The court emphasized that estate tax is based on interests existing at the time of death.

Facts

Edson Bradley created two irrevocable trusts. The 1918 trust provided $1,000 annually to his daughter, Julie Shipman, with the balance of income to his wife, Julia Bradley. If Julia predeceased Julie, the balance of the income would revert to Edson. Upon Julie's death without issue, the remainder would go to Julia's residuary legatees. Julia died in 1929. The 1917 trust directed income to Julie without time limitation. If Julia W. Bradley survived Julie, income would go to Julia W. Bradley for life, with the principal reverting to Edson. The trust lacked remainder disposition if Julie survived both parents, which occurred.

Procedural History

The Commissioner of Internal Revenue determined a deficiency in estate tax. The executrix, Julie F. Fremont, challenged the inclusion of the trust corpora in the gross estate. The New York Supreme Court construed both trust indentures. The 1918 trust was deemed valid, continuing for Julie's life, with the remainder distributed per Julia W. Bradley's will. The 1917 trust was construed to mean that if Julie survived both parents, she would receive the principal outright. The Tax Court then reviewed the Commissioner's deficiency assessment.

Issue(s)

Whether the corpora of the 1918 and 1917 trusts are includible in the decedent's gross estate as transfers intended to take effect in possession or enjoyment at or after his death, within the meaning of Section 302(c) of the Revenue Act of 1926, as amended.

Holding

1. Yes, because Edson Bradley retained the right to the balance of the 1918 trust income, suspending the possession and enjoyment of the estate until his death or thereafter. Thus, the value of the transfer, less the annuity to the daughter, is includible in decedent's gross estate.

2. Yes, because the 1917 trust transfer took effect at Edson Bradley's death, as his daughter's right to the principal was contingent on her surviving him.

Court's Reasoning

The court analyzed each trust separately, giving deference to the New York court's interpretations of the trust agreements. For the 1918 trust, the court found that Edson Bradley retained a contingent interest that became absolute prior to his death: the right to the balance of the income until Julie's death. The court emphasized that Section 302(c) requires inclusion of property interests where "ultimate possession or enjoyment of which is held in suspense until the moment of grantor's death or thereafter." The court distinguished *May v. Heiner*, noting that Bradley specifically retained a contingent interest. For the 1917 trust, the court relied on the New York Supreme Court's determination that Julie became entitled to the corpus only upon surviving Edson Bradley. This made the transfer one intended to take effect at death, aligning with the rationale of *Helvering v. Hallock*. The court concluded, "The decedent's death was the event which brought into being the remainder estate of the daughter."

Practical Implications

This case illustrates the importance of carefully structuring trusts to avoid inclusion in the grantor's gross estate. Retaining any significant interest, even a contingent one, or making the transfer of the remainder contingent on the grantor's death, can trigger estate tax liability. The case demonstrates that state court decisions construing trust instruments are binding for federal tax purposes regarding property rights. Post-*Bradley*, estate planners must consider not only express reversionary interests, but also any possibility of retained control or enjoyment that could be construed as a transfer taking effect at death. Later cases citing *Bradley* often involve intricate trust provisions and require careful analysis of the grantor's retained rights and the timing of the beneficiaries' enjoyment of the trust property.

