9 T.C. 484 (1947)

A completed gift for gift tax purposes does not automatically qualify for the gift tax exclusion if the gift constitutes a future interest, meaning the donee's possession or enjoyment is delayed.

Summary

Andrew Geller created a trust for his family, reserving certain powers. He later relinquished these powers and sought to treat the initial trust transfer as a completed gift to take advantage of gift tax exclusions. The Tax Court held that while Geller's relinquishment of power made the gift complete, it did not transform future interests into present interests. Because the beneficiaries' enjoyment of the trust was contingent and delayed, the gifts did not qualify for the gift tax exclusion under Section 1003(b)(1) of the Internal Revenue Code.

Facts

In 1938, Andrew Geller established a trust naming his wife and eldest son as trustees for the benefit of his wife and five children. The trust was funded with 100 shares of stock. Geller retained the power to terminate the trust and redistribute the principal, but not to revest the assets in himself. In 1944, Geller relinquished his power to terminate the trust. He then consented to treat the original 1938 transfer as a completed gift for gift tax purposes. The trust distributed income at the trustee's discretion; corpus distribution was deferred until the death of Geller's wife.

Procedural History

Geller filed gift tax returns for 1943 and 1944. The Commissioner of Internal Revenue determined deficiencies, arguing that the gifts in the 1938 trust were future interests and did not qualify for the $5,000 exclusion. Geller petitioned the Tax Court, arguing that his relinquishment of power and consent to treat the 1938 transfer as a completed gift entitled him to the exclusions.

Issue(s)

1. Whether Geller's relinquishment of powers and consent under Section 1000(e) of the Internal Revenue Code automatically entitled him to gift tax exclusions for the 1938 trust transfer.
2. Whether the gifts made in the 1938 trust were gifts of present or future interests, considering the discretionary distribution of income and the deferred distribution of corpus.

Holding

1. No, because relinquishing control and consenting to treat the transfer as a completed gift under Section 1000(e) does not automatically determine

whether the gifts were of present or future interests.

2. The gifts of corpus were future interests because the beneficiaries' enjoyment was contingent upon surviving Geller's wife and other conditions. The gifts of income to minor beneficiaries were also future interests because distribution was at the trustee's discretion. The value of the gifts of income to adult beneficiaries could not be determined, so exclusions were not allowed.

Court's Reasoning

The Tax Court reasoned that a gift could be complete for tax purposes yet still convey only future interests. Citing *United States v. Pelzer, 312 U.S. 399* (1941), the court defined a future interest as one "limited to commence in possession or enjoyment at a future date." The court stated that Section 1000(e) merely allowed taxpayers to treat certain prior transfers as completed gifts without addressing whether those gifts were of present or future interests. The court emphasized that the beneficiaries' enjoyment of the trust corpus was contingent and deferred, making it a future interest. As for income, the trustee's discretion to distribute or accumulate income for minor beneficiaries rendered those gifts as future interests. The court further found that because the trustees had discretionary power to invade the trust principal for the benefit of the beneficiaries, the value of the income interests was unascertainable, and thus no exclusion was permitted. The court noted "Plainly, the use, possession, or enjoyment of the trust corpus did not pass to anyone at the date of the trust indenture, but was limited to commerce 'at some future date or time.'"

Practical Implications

Geller v. Commissioner clarifies that merely designating a transfer as a completed gift does not guarantee eligibility for gift tax exclusions. Attorneys must carefully analyze trust agreements to determine whether the beneficiaries have a present right to the use, possession, or enjoyment of the gifted property. Discretionary powers given to trustees, deferred distribution dates, and contingencies related to survivorship can all cause a gift to be classified as a future interest, thereby disqualifying it for the gift tax exclusion. Later cases have cited *Geller* when distinguishing between present and future interests in the context of trusts and gift tax planning.