9 T.C. 736 (1947)

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The corpus of a trust is includible in a decedent's gross estate under Section 811(c) of the Internal Revenue Code if the decedent, as beneficiary, possessed a legally enforceable right to have the trust corpus invaded for their benefit, even if that right was never exercised.

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Summary

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The Tax Court addressed whether the corpus of a trust created by the decedent was includible in her gross estate for tax purposes. The decedent had created a trust in 1926, naming herself as a life beneficiary and co-trustee, with the trust allowing encroachment upon the corpus for her "proper maintenance and support." Despite becoming mentally incompetent in 1930, she was never formally removed as co-trustee. The court held that because the trust provided an enforceable right for the decedent to have the corpus invaded for her benefit, the trust corpus was includible in her gross estate, regardless of her competency or whether the power was actually exercised.

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Facts

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In 1926, Virginia West created a trust, naming herself both a life beneficiary and a co-trustee along with St. Louis Union Trust Company. The trust instrument authorized the trustees to encroach upon the corpus for West's "proper maintenance and support" or in the event of an emergency. West became mentally incompetent in 1930 and remained so until her death in 1941, but was never legally declared incompetent nor removed as co-trustee. The power to encroach upon the corpus was never exercised, and West's income from other sources exceeded her expenditures. At the time of her death, the trust corpus was valued at $152,837.54.

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Procedural History

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The Commissioner of Internal Revenue determined a deficiency in West’s estate tax. The estate, through its executor, challenged the deficiency in the United States Tax Court. Two of the issues were resolved by stipulation. The remaining issue concerned the inclusion of the trust corpus in the gross estate.

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Issue(s)

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Whether the corpus of the trust created by the decedent is includible in her gross estate as a transfer

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