9 T.C. 779 (1947)

For the purpose of calculating the deduction for previously taxed property under Section 812(c) of the Internal Revenue Code, *inter vivos* bank deposits held in tentative trusts are considered "subject to general claims" of creditors, regardless of whether the estate's assets are sufficient to cover those claims without resorting to the trust funds.

Summary

The Estate of Emma H. Emanuel contested a deficiency in federal estate tax. The central issue was whether bank deposits held in tentative trusts for her children and grandchildren were "subject to general claims" of creditors under Section 812(c) of the Internal Revenue Code, which governs deductions for previously taxed property. The Tax Court held that even though the estate had sufficient assets to pay creditors without using the trust funds, the potential for creditors to access these funds meant they were "subject to general claims." The Court reasoned that the power of creditors to potentially reach the trust assets was enough to satisfy the statute, aligning the treatment of these trusts with that of real property in Pennsylvania.

Facts

- Emma Emanuel, a resident of Pennsylvania, died on July 13, 1944.
- During her lifetime, Emanuel created four savings accounts in trust for her son, daughter, grandson, and granddaughter, totaling $40,517.75 at the time of her death. These were "tentative trusts".
- Emanuel retained exclusive possession of the deposit books.
- The estate included the amount of the deposits in the estate tax return but not in the estate inventory filed with the Register of Wills.

Procedural History

The Commissioner of Internal Revenue determined a deficiency in the estate tax, arguing the savings accounts were not subject to the general claims of creditors. The Commissioner applied Section 812(c) of the Internal Revenue Code, reducing the previously taxed property deduction, resulting in a higher tax liability. The estate appealed to the Tax Court.

Issue(s)

Whether *inter vivos* bank deposits, constituting tentative trusts under Pennsylvania law, are considered

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