9 T.C. 1055 (1947)

A gift is considered complete for gift tax purposes when the donor has relinquished dominion and control over the gifted property, demonstrating an intent to make an irrevocable transfer.

Summary

G.C. Herrmann and his wife sought to establish trusts for their children, funded by their community interest in an oil and gas lease. In 1942, they executed trust instruments and assignments, delivering them to their attorney for recording. The eldest daughter, Regina Baird, orally agreed to serve as trustee before moving to California. The documents were recorded in January 1943, and Regina signed the trust instruments in August 1943. The Tax Court held that the gifts were completed in 1942, not 1943, because the donors relinquished control and demonstrated an intent to make a completed gift in 1942.

Facts

Herrmann and his brother co-owned an oil and gas lease. Desiring financial security for their children, they consulted an attorney about creating trusts. Herrmann wanted his eldest daughter, Regina Baird, to be the trustee. The attorney discussed the terms of the trust with Mrs. Baird, who agreed to serve. In December 1942, Herrmann and his wife executed assignments of their interest in the lease and trust instruments. They delivered these documents to their attorney to be recorded. Mrs. Baird moved to California in late 1942.

Procedural History

The Commissioner of Internal Revenue determined a gift tax deficiency for 1943, arguing the gifts were completed when the assignments were recorded and the trustee signed the documents in 1943. Herrmann contested the deficiency, asserting the gifts were complete in 1942. The Tax Court reviewed the Commissioner’s determination.

Issue(s)

Whether the gifts in trust of an undivided community interest in an oil and gas lease were completed in 1942 or 1943 for gift tax purposes?

Holding

No, the gifts were completed in 1942, because the donors relinquished dominion and control over the property and demonstrated the intent to make an irrevocable transfer in 1942.

Court’s Reasoning

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The court emphasized that under Texas law, a gift is complete when the grantor intends to make a conveyance and takes actions that clearly demonstrate that intention. The court noted that Herrmann and his wife executed the assignments and trust instruments in December 1942, delivered them to their attorney for recording, and notified the other oil operators to remit payments to the trustee. These actions demonstrated a clear intention to complete the gift in 1942. The court cited *Taylor v. Sanford, 108 Tex. 340*, stating that "If the instrument be so disposed of by [the grantor], whatever his action, as to clearly evince an intention on his part that it shall have effect as a conveyance, it is a sufficient delivery." The fact that the trustee did not sign the trust instruments until 1943 was not determinative, because she had already orally accepted the trusteeship and begun performing her duties. Also, acceptance of a beneficial gift is presumed absent a disclaimer. The court found that all essential steps to complete the gift were taken in 1942, making the Commissioner's assessment of a deficiency for 1943 erroneous.

Practical Implications

This case provides guidance on determining the timing of completed gifts for tax purposes, emphasizing the importance of the donor's intent and actions demonstrating a relinquishment of control. Practitioners should focus on documenting the donor's intent to make a present gift and ensuring that the donor takes steps to transfer control of the assets. The case highlights that formal acceptance by a trustee, while preferred, is not always required if other evidence demonstrates the trustee's acceptance and the donor's intent. Later cases applying this ruling would analyze the totality of circumstances to determine when the donor relinquished control and the gift became irrevocable.

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