Bartman v. Commissioner, 10 T.C. 1073 (1948)

The gift tax applies to the extent that property transferred exceeds the value of consideration received by the donor, and the valuation of annuities received as consideration should be based on established mortality tables unless the donor proves the Commissioner's valuation erroneous.

Summary

The Tax Court addressed whether certain gifts of land, subject to annuity obligations and mortgages, were complete for gift tax purposes and how to value the annuities. The decedent transferred land to his children, who gave him annuity obligations secured by liens on the land and also executed notes and mortgages to the decedent's grandson. The court held that the gifts were complete to the extent the value of the land exceeded the annuity's value, that the wife's contingent annuity was not deductible, that the Commissioner's annuity valuation was correct, and that the notes and mortgages were a completed gift to the grandson, requiring an additional exclusion.

Facts

The decedent transferred three tracts of land to his children. Each child executed an annuity obligation to the decedent, secured by a lien on the land, and a $5,000 note and mortgage to the decedent's grandson, Koert Bartman, Jr.
The annuity obligations were the personal obligations of the transferees and were not limited to payment from the transferred properties. The decedent's wife was to receive a contingent annuity if she survived him.

Procedural History

The Commissioner of Internal Revenue assessed a gift tax deficiency. The taxpayer, Bartman, petitioned the Tax Court for a redetermination of the deficiency.

Issue(s)

1. Whether the gifts of land were complete gifts, considering the annuity obligations secured by liens.
2. Whether the value of contingent annuities to the donor's wife should be deducted from the value of the gifts.
3. Whether the Commissioner's valuation of the annuities payable to the decedent was correct.
4. Whether the $5,000 notes and mortgages executed by each donee should reduce the value of the gifts and whether these notes constituted a separate gift to Koert Bartman, Jr.

Holding

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1. Yes, the gifts were complete to the extent the value of the transferred property exceeded the value of the consideration received by the decedent because the children had a personal obligation to pay the annuities.
2. No, the contingent annuities to the donor's wife should not be deducted because they did not represent consideration flowing back to the decedent.
3. Yes, the Commissioner's valuation of the annuities was correct because the petitioner failed to prove it was erroneous and the IRS tables are appropriate for valuing private annuities.
4. The notes and mortgages were a separate completed gift to Koert Bartman, Jr., but did not reduce the value of the gifts to the children; however, an additional $3,000 exclusion should have been allowed for the gift to Koert, Jr.

Court's Reasoning

The court distinguished this case from *Adams* and *Hettler*, where retained powers were so extensive or the transferee's ability to pay was so doubtful that the gifts were incomplete. Here, the annuity obligations were the personal obligations of the transferees, and there was no indication they were unable to pay. The lien on the property was merely for security. The court stated, "It is only to the extent of the excess of the value of the transferred property over the value of the consideration received by the decedent that the transfer is taxed as a gift under section 1002 of the Internal Revenue Code." The contingent annuities to the wife were not consideration flowing to the decedent but rather a value passing from the decedent. Regarding annuity valuation, the court relied on *Estate of Charles H. Hart*, approving the use of the Commissioner's tables for private annuities. Citing G.C.M. 16460, the petitioner argued the gift of the notes was incomplete until paid. The court distinguished this as applying to the donor's own notes, not notes of third parties, and held the gift to Koert, Jr., was complete. It stated, "The gift tax is an excise imposed, not upon the receipt of property by various donees, but upon the donor's act of making a transfer; and it is measured by the value of the property passing from the donor. Regulations 108, sec. 86.3."

Practical Implications

This case clarifies the requirements for a completed gift when annuities are involved, emphasizing the importance of the transferee's ability to pay and the nature of any retained interests or controls. It reinforces the use of IRS tables for valuing private annuities unless demonstrably inappropriate. Practitioners must carefully analyze the substance of the transaction to determine the true nature of consideration received by the donor. The ruling underscores that a gift of a third party's note is a completed gift at the time of transfer, unlike a gift of the donor's own note. This case is relevant for estate planning involving intra-family transfers where annuities are used, and for valuing gifts where consideration flows to third parties.

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