12 T.C. 172 (1949)

The value of trust property is includible in a decedent's gross estate for estate tax purposes if there exists a possibility, however remote, that the property could revert to the decedent-settlor before their death.

Summary

This case concerns whether trust property should be included in the gross estate of the decedent, Martha M. Tremaine, for estate tax purposes. Tremaine established a trust in 1919, naming her stepchildren as beneficiaries. The Tax Court held that because there was a possibility, however remote, that the trust property could revert to Tremaine if all beneficiaries and their issue predeceased her, the value of the trust property at the time of her death was includible in her gross estate. The court relied heavily on the Supreme Court's decision in *Estate of Spiegel v. Commissioner*.

Facts

Martha M. Tremaine created a trust in 1919 with the Cleveland Trust Co. as trustee. The trust provided income to Tremaine's stepchildren, with eventual distribution of the principal upon each child reaching age 35. Modifications were made to the trust over the years, including one that provided income to Tremaine for life. The trust stipulated that if a child died before complete distribution, the share would go to their issue, and in default of issue, to the other children. All transfers or additions to the trust corpus made after June 2, 1924, are includible in the Tremaine gross estate for estate tax purposes. Tremaine died in 1942 survived by her husband, stepchildren, stepgrandchildren, and stepgreat-grandchildren.

Procedural History

The Commissioner of Internal Revenue determined a deficiency in Tremaine's federal estate tax liability. The estate petitioned the Tax Court, contesting the inclusion of certain trust property in the gross estate. The Tax Court ruled in favor of the Commissioner, holding that the trust property was includible in the gross estate.

Issue(s)

Whether property transferred to a trust before the enactment of the Revenue Act of 1924 should be included in the gross estate of the decedent under Section 811(c) of the Internal Revenue Code, when there is a remote possibility that the trust property could revert to the decedent before death.

Holding

Yes, because there remained a possibility, however remote, that the trust property could revert to the decedent if all beneficiaries and their issue predeceased her; therefore, the property is includible in the gross estate.

Court's Reasoning

The Tax Court relied on *Estate of Spiegel v. Commissioner, 335 U.S. 701 (1949)*, which held that if a reversionary interest remains in the settlor of a trust, even if the monetary value of the interest is small, the corpus of the trust is includible in the gross estate of the settlor upon their death. The Court noted the only material difference between the facts in *Spiegel* and the case at bar is that in the case at bar the decedent was a resident of Ohio, whereas in the *Spiegel* case the decedent was a resident of Illinois. The court accepted that, under Ohio law, the corpus of the trust would revert to the settlor in the event of the death of all beneficiaries and their issue before the death of the settlor. The Tax Court stated, "On the authority of *Estate of Spiegel v. Commissioner, supra*, and the companion case of *Commissioner v. Estate of Church, 335 U.S. 632*, both of which were decided by the Supreme Court on January 17, 1949, we hold that the value of the entire trust corpus on the date of decedent's death is includible in her gross estate for estate tax purposes."

Practical Implications

This case, along with *Estate of Spiegel* and *Estate of Church*, highlights the importance of carefully drafting trust instruments to avoid unintended estate tax consequences. Even a remote possibility of reversion can cause inclusion of the trust assets in the grantor's estate. Attorneys must consider the possibility of reversion under state law when drafting trust documents. This case reinforces the principle that the focus is on whether a reversionary interest exists, not on its actuarial value or the likelihood of it occurring. Subsequent legislation and case law have modified some aspects of these rulings, but the core principle remains relevant in estate planning.

