*12 T.C. 210 (1949)*

r
r

When a grantor retains the right to apply trust income to discharge their legal obligations, to accumulate income, or to terminate the trust, the value of the trust property is includible in the grantor's gross estate for estate tax purposes.

r
r

**Summary**

r

Mary Hays created a trust for her children, naming herself as trustee. The trust held farm lands subject to mortgages on which Hays was primarily liable. The trust authorized Hays to pay off the mortgage notes from trust income or otherwise, and allowed her to withhold income from beneficiaries, adding it to the corpus. Hays also retained the right to terminate the trust. The Tax Court held that the value of the trust property was includible in Hays' gross estate because she retained the right to benefit from the trust income (by discharging her debts) and to control the beneficial enjoyment of the property.

r
r

**Facts**

r

Mary Hays (the decedent) established a trust on July 31, 1941, naming herself as trustee for her four adult children. The trust corpus consisted of four parcels of farm land. Several parcels were subject to mortgages on which Hays was primarily liable. The trust agreement authorized the trustee to pay the mortgage indebtedness out of the trust income or in any manner she deemed best. The trust also granted Hays broad powers of management and provided that she could distribute the net income to the beneficiaries as she deemed best, with undistributed income remaining in the trust. The trust was to continue until Hays' death unless she terminated it earlier. Upon termination, the trust estate was to be distributed to the beneficiaries. Hays filed a gift tax return for the transfer to the trust and paid gift tax.

r
r

**Procedural History**

© 2025 SCOTUSreports.com. All rights reserved. 

r

The Commissioner of Internal Revenue determined an estate tax deficiency against the Estate of Mary H. Hays, arguing that the value of the trust property should be included in her gross estate. The Estate challenged this determination in the Tax Court.

r
r

**Issue(s)**

r

Whether the value of the trust property is includible in the decedent's gross estate under Section 811(c) or (d) of the Internal Revenue Code, where the grantor retained (1) the right to apply trust income to discharge her mortgage obligations, (2) the right to accumulate trust income, and (3) the right to terminate the trust at any time.

r
r

**Holding**

r

Yes, because the grantor retained rights that caused the trust to be included in her gross estate. The grantor's right to apply trust income to discharge her obligations was a retained benefit. Her rights to accumulate income and terminate the trust gave her the power to designate who would enjoy the property.

r
r

**Court's Reasoning**

r

The court reasoned that the grantor's retained rights triggered inclusion under Section 811(c) and (d) of the Internal Revenue Code. The court stated that if the income applied against the mortgage notes had been in satisfaction of the decedent's legal obligation, there would be little doubt about including the value of the trust property in the gross estate. The court referenced Treasury Regulations stating,

© 2025 SCOTUSreports.com. All rights reserved. 