Charles E. Merrill, 9 T.C. 1107 (1947)

Under California community property law, a husband's transfer to his wife of her pre-existing one-half interest in community property earnings does not constitute a taxable gift, even under Section 1000(d) of the Internal Revenue Code.

Summary

This case addresses whether a husband's delivery to his wife of one-half of his salary, constituting community property under California law, is a taxable gift under Section 1000(d) of the Internal Revenue Code. The Tax Court held that such a transfer is not a gift because the wife already owns the transferred property. Section 1000(d) only applies to gifts of community property; it doesn't create a gift where one doesn't already exist. Treasury Regulations that attempt to expand the definition of "gift" are invalid.

Facts

Charles E. Merrill, residing in California, delivered one-half of his salary and personal earnings to his wife during 1943, 1944, and 1945. Under California law, the salary and compensation of the petitioner was community property. The Commissioner determined these transfers constituted taxable gifts, assessing a deficiency.

Procedural History

The Commissioner determined a gift tax deficiency against Charles E. Merrill for the years 1943-1945. Merrill petitioned the Tax Court for a redetermination of the deficiency. The Tax Court reviewed the case.

Issue(s)

Whether the delivery by a husband to his wife of one-half of his salary and personal earnings, when such earnings constitute community property under California law, constitutes a taxable gift under Section 1000(d) of the Internal Revenue Code.

Holding

No, because Section 1000(d) applies only to gifts of community property, and the transfer of a wife's pre-existing interest in community property is not a gift.

Court's Reasoning

The court reasoned that under California law, the wife already owned one-half of the community property. Therefore, the husband's transfer of that half to her was not a gift because a gift requires the transfer of ownership. Section 1000(d) of the Internal Revenue Code addresses gifts of community property, but it does not redefine what

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constitutes a gift. The court stated: “They were not gifts and hence do not come within the purview of section 1000 (d). This section is predicated upon the existence of a gift. Under its own terms it specifically relates to and is based upon ‘all gifts of property held as community property.’ (Italics supplied.) It applies only when there is a gift of property.” The court further held that Treasury Regulations attempting to expand the meaning of

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