12 T.C. 629 (1949)

When a grantor creates a trust but retains a life interest in the income or the possibility of a reverter, the value of the trust corpus is includable in the grantor's gross estate for estate tax purposes under Section 811(c) of the Internal Revenue Code.

Summary

Anna Scott Farnum created an irrevocable trust in 1931, reserving the right to all income exceeding $7,500 annually, with $2,500 to be distributed to each of her three children. The trust stipulated that if Farnum outlived her children and their descendants, the trust corpus would revert to her or her estate. Upon Farnum's death, the Commissioner of Internal Revenue sought to include the value of the trust corpus in her gross estate. The Tax Court held that the trust corpus's value should be included in Farnum's gross estate under Section 811(c) of the Internal Revenue Code, based on the Supreme Court's decisions in *Commissioner v. Church* and *Spiegel v. Commissioner*.

Facts

- Anna Scott Farnum created an irrevocable trust on January 19, 1931, naming Fidelity-Philadelphia Trust Co. and James D. Winsor, Jr., as trustees.
- The trust provided that Farnum would receive the net income, but the first $7,500 was to be distributed in annual payments of $2,500 to each of her three children.
- The trust stipulated that upon the death of each child, their share would pass to their issue; if a child died without issue, it would pass as dictated by the child's will; or in the absence of a will, to the descendants of Anna Scott Farnum. If she outlived all descendants, the corpus would revert to her or her estate.
- Farnum died on May 25, 1940.

Procedural History

- The Estate of Anna Scott Farnum filed a federal estate tax return without including any amount in the gross estate concerning the trust.
- The Commissioner issued a notice of deficiency, arguing a portion of the trust should be included.
- The Commissioner amended the answer, alleging the entire trust corpus should be included in the gross estate.
- The Tax Court ruled in favor of the Commissioner, including the entire corpus in the gross estate.

Issue(s)

1. Whether the trust created by the decedent should be included in her gross

estate under Section 811(c) of the Internal Revenue Code as a transfer intended to take effect in possession or enjoyment at or after her death.

Holding

1. Yes, because the decedent retained a life interest in the trust income and the possibility of a reverter, meaning that the transfer was intended to take effect in possession or enjoyment at or after her death according to Section 811(c) as interpreted by *Commissioner v. Church* and *Spiegel v. Commissioner*.

Court's Reasoning

The court relied heavily on *Commissioner v. Church*, which held that a trust agreement reserving a life income to the settlor was intended to take effect in possession and enjoyment at the settlor's death, thus requiring the inclusion of the trust property in the gross estate. The court also cited *Spiegel v. Commissioner*, which stipulated that if a settlor conveys less than all ownership rights, Section 811(c) necessitates the inclusion of the trust's value in the gross estate. The court noted, quoting *Spiegel*, that taxability under Section 811(c)

