12 T.C. 1047 (1949)

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When a testator bequeaths property to an existing trust over which another individual holds the power to alter or revoke, the testator implicitly grants that individual a general power of appointment over the bequeathed property, making it includible in the individual's gross estate for estate tax purposes.

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Summary

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The Tax Court addressed whether assets transferred to a trust were includible in the decedent's gross estate under Section 811(f) due to a power of appointment. The decedent's wife bequeathed her residuary estate to a trust created by the decedent, which he had the power to alter or revoke. The court held that the decedent possessed and exercised a general power of appointment over his wife's residuary estate because she transferred the assets to a trust that he controlled, thus allowing him to direct the disposition of those assets. This decision affirmed the Commissioner's determination of a deficiency in the estate tax.

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Facts

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Charles M. Sheaffer (the decedent) created an inter vivos trust in 1936, retaining the power to alter or revoke it. His wife, Margaret C. Sheaffer, later executed a will leaving her residuary estate to the same trust. Margaret's will specified that her residuary estate was to be added to the principal of the trust

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