13 T.C. 138 (1949)

Even an irrevocable trust can be included in a decedent's gross estate for estate tax purposes if there exists a possibility of reverter to the grantor by operation of law, regardless of how remote that possibility may seem.

Summary

The Tax Court addressed whether the proceeds of life insurance policies held in an irrevocable trust were includible in the decedent's gross estate for estate tax purposes. The decedent had created the trust, naming her children as beneficiaries. The court held that because the trust instrument provided for distribution to the decedent's living children (or issue of deceased children), a possibility existed that the trust corpus could revert to the decedent if she outlived all beneficiaries. This possibility of reverter, even if remote, caused the trust assets to be included in her gross estate under Section 811(c) of the Internal Revenue Code.

Facts

Ruth Brainard Cutler created an irrevocable life insurance trust in 1935, funding it with five life insurance policies on her own life. The trust named the Hartford National Bank & Trust Co. as trustee. The trust instrument directed the trustee to divide the trust corpus into equal parts for the decedent's living children and the living issue of any deceased children upon her death. The trust indenture stated the decedent reserved

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