Estate of Lena R. Arents v. Commissioner, 34 B.T.A. 705 (1950)

Life insurance proceeds held in a trust are includible in a decedent's gross estate under Section 811(c) of the Internal Revenue Code if there exists a possibility that the trust corpus could revert to the decedent by operation of law, regardless of the remoteness of that possibility.

Summary

The Board of Tax Appeals addressed whether the proceeds of life insurance policies held in trust were includible in the decedent's gross estate. The trust provided for distribution to the decedent's children or their issue, with no provision for other beneficiaries. The Board held that because there was a possibility that the trust corpus would revert to the decedent if all beneficiaries predeceased her, the proceeds were includible in her gross estate under Section 811(c) as a transfer intended to take effect in possession or enjoyment at or after her death. The remoteness of this possibility was deemed immaterial, relying on *Estate of Spiegel v. Commissioner*.

Facts

Lena R. Arents created a trust on December 19, 1935, funded with life insurance policies. The trust instrument stipulated that upon Arents' death, the trustee would divide the principal into shares for her living children and deceased children with living issue. Only designated beneficiaries surviving Arents could inherit. There was no provision addressing the disposition of trust assets if all designated beneficiaries predeceased her.

Procedural History

The Commissioner of Internal Revenue determined that the proceeds of the life insurance policies were includible in Arents' gross estate. Arents' estate petitioned the Board of Tax Appeals for a redetermination of the deficiency. The Commissioner argued for inclusion under Section 811(g)(2)(A) and Section 811(c) of the Internal Revenue Code. The Board considered the arguments and rendered its decision.

Issue(s)

Whether the proceeds of the life insurance policies, constituting the corpus of a trust created by the decedent, are includible in the decedent's 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 death, because of the possibility that the trust corpus would revert to the decedent if all designated beneficiaries predeceased her.

Holding

Yes, because the trust instrument provided that only beneficiaries who survived the

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decedent could take, and there existed a possibility that the trust corpus would revert to her by operation of law if all beneficiaries predeceased her. This possibility, regardless of its remoteness, made the transfer one intended to take effect in possession or enjoyment at or after the decedent's death.

Court's Reasoning

The Board relied on *Estate of Spiegel v. Commissioner, 335 U.S. 701*, which held that a transfer is includible in the gross estate if the grantor retains a possibility of reverter, regardless of how remote that possibility is. The Board reasoned that because the trust instrument only designated beneficiaries who survived the decedent, a possibility existed that the trust corpus would revert to Arents if she outlived all designated beneficiaries. The Board also determined that Connecticut law, where the trust was created, would allow the trust corpus to revert to the decedent under those circumstances. The Board rejected the petitioner's argument that the *Spiegel* case was distinguishable because it involved income-producing property, noting that Section 811(c) applies to all property regardless of its nature. The key question, as stated in *Spiegel*, is whether "some present or contingent right or interest in the property still remains in the settlor so that full and complete title, possession or enjoyment does not absolutely pass to the beneficiaries until at or after the settlor's death."

Practical Implications

This case, along with *Estate of Spiegel*, underscores the importance of carefully drafting trust instruments to avoid any possibility of a reversion to the grantor, even if remote. This is particularly relevant in the context of life insurance trusts, where the proceeds can be substantial. Attorneys drafting such trusts must ensure that there are clear provisions for alternative beneficiaries or disposition of the trust assets in the event that the primary beneficiaries predecease the grantor. The case highlights that the nature of the trust property (whether income-producing or life insurance proceeds) is irrelevant for the application of Section 811(c). Later cases have distinguished this ruling based on specific language in the trust instruments that explicitly precluded any possibility of reverter, even in unforeseen circumstances, or based on changes in the tax code.

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