Towle v. Commissioner, 6 T.C. 965 (1946)

For a valid gift to occur for tax purposes, the donor must intend to make the gift and unconditionally deliver the subject matter to the donee, relinquishing dominion and control.

Summary

The petitioner, Towle, sought a determination from the Tax Court regarding whether she completed gifts of stock to her minor children in 1942. While she admitted to gifting stock to her son, Frederick, she argued that the gifts to her other two minor children, Naomi and John, were not completed. The Tax Court agreed with Towle, holding that while the stock transfer was recorded on the company's books, Towle never unconditionally delivered the stock certificates or relinquished control, thus the gifts were not completed for tax purposes.

Facts

Towle owned stock in Towle Realty Co. In 1942, she intended to gift an equal number of shares to each of her three children. She instructed her cousin, Edwin Towle, who managed the company's books, to prepare stock certificates for the transfer. Edwin delivered the certificate for 120 shares to Frederick, but Towle instructed Edwin to hold the certificates intended for her two minor children, Naomi and John, until she provided further notice, as she was still undecided about those gifts. No certificates were ever delivered to Naomi or John.

Procedural History

The Commissioner of Internal Revenue assessed a deficiency against Towle, arguing that she had completed gifts to all three children. Towle petitioned the Tax Court for a redetermination, contesting the assessment related to the gifts to Naomi and John.

Issue(s)

Whether Towle completed gifts of Towle Realty Co. stock to her two minor children, Naomi and John, in 1942, such that she relinquished dominion and control over the stock for tax purposes.

Holding

No, because Towle did not unconditionally deliver the stock certificates to Naomi and John, nor did she instruct Edwin to do so; thus, she retained control over the shares and the gifts were not completed.

Court's Reasoning

The Tax Court emphasized that a valid gift requires both the intention to make a gift

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and the unconditional delivery of the gift to the donee. Citing *Lunsford Richardson, 39 B. T. A. 927*, the court stated that a donor "must surrender dominion and control of the subject matter of it." While a transfer of shares on the company's books can sometimes indicate a completed gift (*Marshall v. Commissioner, 57 Fed. (2d) 633*), the court found that other circumstances in this case indicated that Towle never relinquished control over the stock intended for Naomi and John. Towle specifically instructed Edwin to hold the certificates until further notice, demonstrating her continued control. The court quoted *Weil v. Commissioner, 82 Fed. (2d) 561*, stating, "If the donor intends to give, and even goes so far as to transfer stock on the books of the company, but intends first to do something else and retains control of the transferred stock for that purpose, there is no completed gift." Because Edwin was not acting as a trustee for the children and Towle retained the power to decide whether or not to deliver the stock, the court concluded that the gifts were not completed.

Practical Implications

This case reinforces the importance of demonstrating an unconditional relinquishment of control when making a gift, particularly for tax purposes. Simply transferring stock on the books of a company is insufficient if the donor retains the power to decide whether the gift will ultimately be delivered. Attorneys advising clients on gift strategies should emphasize the need for clear and unequivocal actions demonstrating the donor's intent to relinquish control, such as direct delivery to the donee or delivery to an independent trustee acting on the donee's behalf. Subsequent cases and IRS guidance have continued to emphasize the necessity of relinquishing dominion and control for a gift to be considered complete, focusing on the donor's actions and intentions at the time of the purported gift.

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