13 T.C. 731 (1949)

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The IRS can pursue estate taxes from assets held in an *inter vivos* trust before exhausting the decedent's probate estate when the executor fails to pay the tax due.

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Summary

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This case addresses whether the Commissioner of Internal Revenue must first exhaust the assets of a decedent's estate before pursuing estate taxes from an *inter vivos* trust. The Tax Court held that sections 826 and 827 of the Internal Revenue Code authorize the IRS to recover estate taxes from the assets of an *inter vivos* trust without first exhausting the decedent's probate estate. This decision clarifies the IRS's broad power to collect estate taxes from various sources and emphasizes the personal liability of transferees for unpaid estate taxes.

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Facts

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Laura Etnier Austin created an *inter vivos* trust on March 14, 1930, naming Equitable Trust Company as trustee. The trust agreement stipulated that the net income would be paid to Austin during her lifetime and then to her son, A. Everett Austin, Jr., after her death. Austin died on September 3, 1944, and her son served as the executor of her will. At the time of Austin's death, the trust assets were valued at $355,108.66, while her probate assets totaled $43,624 in securities, $18,779.05 in cash, and other personal property and real estate. Despite the estate tax return disclosing a gross estate of $475,959.33, the executor only paid a portion of the $103,633.33 tax liability and requested that the IRS pursue the trust for the remaining balance.

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Procedural History

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The executor filed an estate tax return and paid a portion of the tax due. The executor informed the IRS of his inability to pay the full amount and requested that the IRS pursue the trustee for the balance. The IRS issued a notice of liability to Equitable Trust Company as trustee and transferee for the unpaid estate tax. Equitable Trust Company protested, leading to the Tax Court case.

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Issue(s)

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1. Whether the Commissioner is required to exhaust remedies against the executor of an estate before pursuing estate taxes from the trustee of an *inter vivos* trust included in the gross estate under section 811(c) of the Internal Revenue Code.

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Holding

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1. No, because sections 826 and 827 of the Internal Revenue Code grant the Commissioner broad powers to collect unpaid estate taxes from various parties, including transferees and trustees, without requiring exhaustion of remedies against the executor first.

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Court’s Reasoning

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The Tax Court reasoned that section 827(b) explicitly allows the Commissioner to

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proceed against a

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