14 T.C. 198 (1950)

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A trustee with broad discretionary powers over trust income, including the power to distribute it to herself, can be taxed on the trust income if she fails to demonstrate the extent to which her control was limited by the needs of other potential beneficiaries.

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Summary

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Eleanor Funk, the sole trustee of trusts created by her husband, Wilfred Funk, was granted broad discretion to distribute trust income annually to herself or her husband, limited only by her judgment of his needs. The IRS determined that Eleanor was taxable on the trust income. The Tax Court held that Eleanor failed to prove what portion of the trust income she could have been compelled to pay her husband, and thus, failed to show how much income was not under her absolute control. The court concluded that her power over the trust income was sufficiently unfettered to warrant taxation under Section 22(a) of the Internal Revenue Code.

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Facts

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Wilfred Funk created four trusts (A, B, C, and D) on December 29, 1936, naming his wife, Eleanor Funk, as the trustee of each. The trusts held stock in Erwin Park, Inc., Wilfred's personal holding company. The trust indentures authorized Eleanor, as trustee, to pay all or part of the net income annually to herself or Wilfred, based on their respective needs, of which she was the sole judge. Any undistributed income was to be accumulated and added to the principal, never to be distributed later. Eleanor opened bank accounts for each trust, with her as the sole signatory.

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Procedural History

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The Commissioner of Internal Revenue determined deficiencies in Eleanor Funk's income tax liability for the years 1938-1941, arguing that she was taxable on the aggregate net income of the four trusts. The Tax Court initially upheld the Commissioner's determination. The Third Circuit Court of Appeals reversed and remanded the case, directing the Tax Court to conduct further proceedings. On remand, the Tax Court again ruled in favor of the Commissioner.

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Issue(s)

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Whether Eleanor Funk, as trustee, is taxable on all of the net income of four trusts for the years 1938 to 1941, inclusive, given her discretionary power to distribute the income to herself or her husband based on their respective needs.

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Holding

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No, because Eleanor Funk, as trustee, failed to prove what amount of the trust income, if any, was not within her absolute control due to the potential needs of her husband.

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Court's Reasoning

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The Tax Court relied on the principle that the power to dispose of income is equivalent to ownership. The court emphasized the trust provision granting Eleanor discretion to pay income to herself or her husband "in accordance with our respective needs, of which she shall be the sole judge." The court cited *Mallinckrodt v. Nunan*, which held that a beneficiary's power to receive trust income upon request is equivalent to ownership for tax purposes. The court found that Eleanor had not provided evidence regarding the

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