14 T.C. 611 (1950)

Funds held in a U.S. bank account for a nonresident alien are excludable from the alien's gross estate under Internal Revenue Code Section 863(b) if those funds are considered a deposit "by or for" the alien, even if the alien doesn't have legal title to the specific funds.

Summary

The Tax Court addressed whether certain assets were includible in the gross estate of Irene de Guebriant, a nonresident alien. The court held that trust funds to which the decedent was entitled as a remainderman, deposited in a New York bank, were excludable from her gross estate as a deposit "by or for" her under Section 863(b). However, U.S. bonds and certificates of indebtedness issued after March 1, 1941, were includible. Finally, the court determined the fair market value of certain stock holdings in the estate, accounting for minority interest and restrictions. The court balanced the sometimes competing principles of valuing assets in an estate.

Facts

Irene de Guebriant, a French citizen residing in France, died on May 24, 1945. She was not engaged in business in the United States. A trust had been established for the benefit of Anita Maria de La Grange, with the remainder to La Grange's surviving issue, including de Guebriant. Upon La Grange's death in 1943, de Guebriant became entitled to one-half of the trust corpus. However, wartime restrictions prevented immediate distribution. The trust assets remained undistributed at de Guebriant's death, and were held in a bank account in the name of the trustees. The estate tax return did not include de Guebriant's share of the trust funds. Additionally, de Guebriant owned shares of Phelps Estate, Inc., a closely held corporation holding real property. The corporation's operations were blocked due to stock ownership by foreign nationals. Finally, the gross estate included U.S. bonds and certificates of indebtedness.

Procedural History

The Commissioner of Internal Revenue determined a deficiency in de Guebriant's estate tax. The Commissioner increased the value of Phelps Estate, Inc., stock, and included the trust funds in the gross estate. The estate petitioned the Tax Court for a redetermination of the deficiency.

Issue(s)

1. Whether one-half of the trust funds deposited in a New York bank, to which the decedent was entitled as a remainderman, were excludable from her gross estate as a deposit "by or for" her within the meaning of Section 863(b) of the Internal Revenue Code?

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2. What was the fair market value of the Phelps Estate, Inc., stock?

3. Whether U.S. bonds and certificates of indebtedness were excludable from the decedent's gross estate under Section 4 of the Victory Liberty Loan Act of 1919?

Holding

1. No, because the trust funds were deposited "by or for" the decedent within the meaning of Section 863(b) despite the funds being held in the name of the trustees.

2. The fair market value of the stock was $16,378.70.

3. No, because the bonds and certificates issued after March 1, 1941, were includible in the gross estate.

Court's Reasoning

Regarding the trust funds, the court relied on *Estate of Karl Weiss, 6 T.C. 227*, stating that the deposit need not be in the decedent's name, nor need it be made directly by the decedent. The court stated that "a usual meaning of 'for' when thus coupled with 'by' is 'for the use and benefit of' or 'upon behalf of'." War conditions prevented a final accounting and distribution, but the trustees were mere liquidating trustees, and their duties were for the sole benefit of the remaindermen. Decedent had a direct enforceable claim against the trustees. The court distinguished *City Bank Farmers Trust Co. v. Pedrick, 168 F.2d 618*, because in that case the trust was still active, whereas here, the trust had terminated. Regarding the stock, the court found that the Commissioner erred in basing his appraisal solely on the asset value. The court considered that the stock represented a minority interest, that the corporation was restricted in its reinvestment options, and that the corporation's operations were blocked by government controls. Regarding the bonds, the court followed its reasoning in *Estate of Karl Jandorf, 9 T.C. 338*, that the exemption in the Victory Liberty Loan Act did not apply to the federal estate tax, which is an excise tax. It recognized the reversal of its decision in *Jandorf v. Commissioner, 171 F.2d 464*, but maintained its position.

Practical Implications

This case clarifies the "by or for" language in Section 863(b) for nonresident aliens, showing that funds held by trustees can be excluded from the gross estate even absent direct control by the alien. It also highlights the importance of considering factors beyond asset value when valuing stock in closely held corporations for estate tax purposes. Minority interests, restrictions on transferability, and government regulations can all significantly impact value. The court's holding on the taxability of U.S. bonds issued after March 1, 1941, demonstrates that exemptions from direct taxation do not necessarily extend to estate taxes. While the Second Circuit disagreed with the Tax Court's interpretation of the Victory Liberty Loan Act as it pertains to estate tax, this case demonstrates the Tax Court's reasoning on the

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issue.

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