***16 T.C. 817 (1951)***

Pension rights that are contingent and subject to modification or termination do not constitute a transfer of property intended to take effect at death, and their commuted value is not includible in the decedent's gross estate under Section 811(c) of the Internal Revenue Code.

### Summary

The Tax Court held that the commuted value of a pension payable to the decedent's widow was not includible in his gross estate. The court reasoned that the decedent's participation in the pension plan was not voluntary and that the pension rights were subject to significant contingencies and employer modifications. The court distinguished this case from those involving purchased annuities where the decedent had fixed property rights. This decision emphasizes that for a transfer to be taxable under Section 811(c), the decedent must possess fixed and enforceable property rights that are transferred in contemplation of death.

### Facts

The decedent, William E. Cornell, was an employee of Northern Trust Co. He participated in the company's pension trust, which required mandatory contributions from employees. Upon Cornell's death, his widow received a pension under the plan. The pension trust rules allowed the company to modify or terminate the plan, potentially affecting the pension benefits. The decedent did not voluntarily select his wife as a beneficiary beyond remaining employed at the bank.

### Procedural History

The Commissioner of Internal Revenue determined that the commuted value of the widow's pension was includible in the decedent's gross estate under Section 811(c) of the Internal Revenue Code. The Estate of William E. Cornell petitioned the Tax Court for a redetermination, arguing that the pension rights did not constitute a transfer intended to take effect at death.

### Issue(s)

Whether the commuted value of the pension payable to the decedent's widow is 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 his death.

### Holding

No, because the decedent's pension rights and those of his wife were contingent and did not constitute fixed and enforceable property rights susceptible to transfer within the meaning of Section 811(c).

 

## Court’s Reasoning

The court distinguished this case from prior cases involving purchased annuities, where the decedent had fixed and enforceable property rights. The court emphasized that in this case, the decedent’s participation in the pension plan was compulsory, and the pension rights were subject to modification or termination by the employer. The court noted that the decedent had no direct control over the selection of his wife as a beneficiary, and his only means of defeating her pension rights was to resign from his position. The court also highlighted that unmarried employees contributed to the plan at the same rate, suggesting that the widow’s pension did not stem directly from the decedent’s contributions. The court relied on the reasoning in *Estate of Emil A. Stake, 11 T. C. 817*, stating that “the decedent made only a limited contribution, under a plan limiting his rights as above set forth, resulting, in our view, in no property rights and no transfer.”

## Practical Implications

This case provides guidance on when survivor benefits are includible in a decedent’s gross estate. It clarifies that contingent pension rights, subject to employer modification or termination, are less likely to be considered a taxable transfer. Attorneys should analyze the terms of pension plans to determine the extent of the decedent’s control and the degree of contingency involved. This decision underscores the importance of distinguishing between purchased annuities and employer-provided pension plans with significant contingencies. Later cases have cited Cornell to support the exclusion of benefits where the decedent’s rights were not fixed and enforceable prior to death.

 