11 T.C. 984 (1948)

A transfer of property, including life insurance policies, is not made in contemplation of death if the dominant motive for the transfer is associated with life, such as protecting assets from potential creditors, rather than testamentary concerns.

Summary

The Tax Court addressed whether the proceeds of life insurance policies transferred by the decedent to his wife should be included in his gross estate for tax purposes. The Commissioner argued the transfers were made in contemplation of death and that the decedent retained incidents of ownership. The court held that the transfers were primarily motivated by a desire to protect the policies from potential malpractice judgments, a life-associated motive, and that the decedent did not retain incidents of ownership after the transfer. Therefore, only a portion of the proceeds, based on premiums paid after a specific date, were includible in the estate.

Facts

The decedent, a prominent surgeon, transferred four life insurance policies to his wife. He was 47 years old and in good health at the time of the transfers. His primary motivation was to shield the policies from potential malpractice lawsuits, as his insurance agent had stopped writing malpractice insurance. The insurance companies informed the decedent that eliminating the possibility of reverter would also avoid federal estate taxes. The assignments were absolute and irrevocable.

Procedural History

The Commissioner determined that the entire proceeds of the life insurance policies should be included in the decedent's gross estate. The Estate of Hunt petitioned the Tax Court for review. The Tax Court reviewed the facts and applicable law to determine whether the Commissioner's determination was correct.

Issue(s)

1. Whether the inter vivos transfers of the life insurance policies were made in contemplation of death under Section 811(c) of the Internal Revenue Code.
2. Whether the decedent possessed any incidents of ownership in the life insurance policies at the time of his death under Section 811(g) of the Internal Revenue Code.

Holding

1. No, because the dominant motive for the transfers was to protect the assets from potential creditors, a motive associated with life, not death.
2. No, because the decedent made absolute and irrevocable assignments of the policies to his wife, relinquishing all incidents of ownership. However, a portion of the proceeds were still includible based on premiums paid after January 10, 1941.

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Court's Reasoning

The court applied the rule from *United States v. Wells*, which states that the inclusion of property in a decedent's estate depends on whether the dominant motive for the transfer was testamentary in nature. The court found the decedent's primary motive was to protect his family by putting the policies beyond the reach of potential judgment creditors, a life-related concern. The court noted, "As would any prudent man, decedent considered the tax consequences and decided to eliminate the possibility of reverter from the proposed assignments. But the desire to avoid estate taxes was incidental to decedent's dominant motive to put the policies beyond the reach of creditors; it was conceived after information had been volunteered by the insurance companies…" Regarding incidents of ownership, the court emphasized that the assignments were absolute and irrevocable, granting complete dominion and control to the wife. The court cited Regulations 105, section 81.27, stating proceeds are includible only in proportion to premiums paid after January 10, 1941, if the decedent retained no incidents of ownership.

Practical Implications

This case illustrates that when determining whether a transfer was made in contemplation of death, courts will examine the transferor's dominant motive. If the motive is primarily associated with life, such as asset protection, the transfer will not be considered in contemplation of death, even if tax avoidance is a secondary consideration. It clarifies that absolute assignments of life insurance policies, relinquishing all incidents of ownership, can remove the policies from the gross estate, except for the portion attributable to premiums paid after January 10, 1941, under the applicable regulations at the time. Later cases have applied this principle, focusing on the factual determination of the transferor's dominant motive and the extent of retained control over the transferred assets.

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