14 T.C. 1263 (1950)

A transfer in trust is considered in contemplation of death, and thus includible in the gross estate for estate tax purposes, if the dominant motive behind the transfer was to provide for beneficiaries after the grantor's death as a substitute for a testamentary disposition, even if income tax savings were also a motivating factor.

Summary

The Tax Court addressed whether a trust created by Jacob Gidwitz was made in contemplation of death, thus includible in his gross estate for estate tax purposes. Gidwitz created the trust in 1936, funding it with stock. The trust accumulated income during his life and then distributed it to his family after his death. The Commissioner argued the trust was a substitute for a will. The court agreed, finding that the dominant motive was testamentary despite the grantor's attempt to also save on income taxes during his lifetime. Therefore, the trust assets were includible in his gross estate.

Facts

Jacob Gidwitz, born in 1864, created an irrevocable trust on December 30, 1936, naming himself and his wife, Rose, as trustees. He transferred 83 33/100 shares of class A stock of International Furniture Co. to the trust. The trust income was to be accumulated during Jacob's lifetime and then distributed to his wife and children after his death. At the same time, Gidwitz executed a will containing similar provisions for distributing his assets upon his and his wife's death. Gidwitz was 72 years old in 1936 and had some heart problems, although he expected to live longer. He died of a heart attack in 1944.

Procedural History

The Commissioner of Internal Revenue determined a deficiency in Gidwitz's estate tax, arguing that the value of the trust assets at the time of his death should be included in his gross estate. The estate challenged this determination in the Tax Court.

Issue(s)

Whether the transfer of property to the trust created by the decedent was made in contemplation of death, thus requiring its inclusion in his gross estate under Section 811(c) of the Internal Revenue Code.

Holding

Yes, because the dominant motive of the decedent in transferring property to the trust was to provide for his wife, their children, and the descendants of any deceased child after his death, making the trust a substitute for a testamentary

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disposition.

Court’s Reasoning

The court reasoned that the trust was a substitute for a testamentary disposition and thus made in contemplation of death, despite Gidwitz’s intention to save on income taxes. The court emphasized that the income from the trust was to be accumulated during Gidwitz’s lifetime, with the beneficiaries only receiving benefits after his death. The court noted the similarities between the trust’s terms and those of Gidwitz’s will, highlighting an integrated plan for disposing of a significant portion of his estate upon his death. The court quoted *United States v. Wells*, stating that the chief purpose of section 811(c) is to reach substitutes for testamentary dispositions and thus prevent the evasion of estate tax. While Gidwitz may have also intended to save on income taxes, the court found that this purpose was secondary to his dominant motive of providing for his family after his death.

Practical Implications

This case clarifies that the “contemplation of death” test under estate tax law focuses on the dominant motive behind a transfer, not merely the donor’s health or age. Even if a transferor has life-related motives, such as saving income taxes, the transfer will be deemed in contemplation of death if its primary purpose is to distribute assets after death as a substitute for a will. Attorneys must carefully analyze the structure and purpose of trusts and other transfers to determine whether they serve as testamentary substitutes, advising clients about the potential estate tax consequences. This case emphasizes that a trust which primarily benefits beneficiaries after the grantor’s death will likely be considered a testamentary substitute, regardless of other motivations.

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