15 T.C. 111 (1950)

A gift in trust for a minor is considered a future interest, not eligible for the gift tax exclusion, if the beneficiary's right to immediate enjoyment is restricted or contingent, even if a guardian could demand the trust assets.

Summary

John W. Kieckhefer created a trust for his grandson, intending to make a gift of a present interest to qualify for the gift tax exclusion. The trust allowed the trustee to use income and principal for the grandson's education, comfort, and support, accumulating unused income. The trust also allowed the grandson or his legal guardian to demand the trust estate at any time. The Tax Court held that the gift was a future interest because the grandson's immediate enjoyment was contingent on a future event (demand by a guardian) and therefore, did not qualify for the gift tax exclusion.

Facts

John W. Kieckhefer established a trust in August 1944 for his newborn grandson, John Irving Kieckhefer. The trust instrument named the grandson's father, Robert H. Kieckhefer, as trustee. The trustee had discretion to use the trust income and principal for the grandson's education, comfort, and support, accumulating any unused income until the grandson turned 21. Paragraph 13 of the trust allowed for early termination if the beneficiary or a legally appointed guardian demanded the trust estate in writing.

Procedural History

The Commissioner of Internal Revenue determined a deficiency in Kieckhefer's gift tax for 1945, arguing that the gift to the trust was a future interest and did not qualify for the gift tax exclusion under Section 1003(b)(3) of the Internal Revenue Code. Kieckhefer petitioned the Tax Court, contesting the deficiency.

Issue(s)

Whether a gift in trust for a minor, with the trustee having discretionary power to use income and principal for the minor's benefit and a provision allowing the minor's legal guardian to demand the trust estate at any time, constitutes a present interest eligible for the gift tax exclusion under Section 1003(b)(3) of the Internal Revenue Code.

Holding

No, because the beneficiary's right to present enjoyment of the trust was contingent upon the actions of a legally appointed guardian, which was not certain or immediate, the gift constituted a future interest, and the gift tax exclusion was not applicable.

Court’s Reasoning

The Tax Court relied on Supreme Court precedent, particularly *United States v. Pelzer*, *Fondren v. Commissioner*, and *Commissioner v. Disston*, which established a distinction between present and future interests for gift tax purposes. To qualify as a present interest, the donee must have the right to presently use, possess, or enjoy the property. The court emphasized that the