15 T.C. 224 (1950)

A decedent's election to receive reduced retirement annuity payments, allowing payments to his wife after his death, does not constitute a transfer of property within the meaning of Section 811(c) of the Internal Revenue Code if, at the time of the election, the decedent did not possess a present property right to the annuity payments.

Summary

The case addresses whether the value of an annuity payable to the decedent's widow should be included in his gross estate for estate tax purposes. The decedent, an employee of Chase National Bank, elected to receive reduced annuity payments during his lifetime, with continued payments to his wife after his death. The Tax Court held that because the decedent did not have a vested right to the annuity payments at the time of the election, no transfer of property occurred within the meaning of Section 811(c) of the Internal Revenue Code. Therefore, the value of the annuity paid to his widow was not includible in his estate, except for the unrecovered portion of his contributions.

Facts

M. Hadden Howell was an employee of The Chase National Bank. The bank had a pension plan providing annuity benefits. Howell contributed $13,155.75 to the plan. The plan allowed the bank to request early commencement of annuity payments. Prior to his normal retirement date (February 1, 1949), Howell elected to receive a reduced annuity with payments continuing to his wife after his death. The bank then requested that Howell's retirement annuity payments commence on February 1, 1944, and paid $107,759.60 to the insurance company. Howell died on June 17, 1944. His widow, Florence, received annuity payments after his death.

Procedural History

Florence E. Howell, as executrix, filed an estate tax return including $57,036.06 for the annuity. The Commissioner determined a deficiency, including the annuity in the gross estate at a higher value of $106,909.69. The Tax Court reviewed the Commissioner's determination and the petitioner's claim of overpayment.

Issue(s)

Whether the decedent's election to receive reduced retirement annuity payments, permitting payments to his wife after his death, constituted a transfer within the meaning of Section 811(c) of the Internal Revenue Code, thus requiring the inclusion of the annuity's value in his gross estate.

Holding

No, because at the time of the election, the decedent did not possess a present property right to the annuity payments that could be transferred. His right to receive the annuity was contingent upon remaining alive and employed by the bank until his normal retirement date, and the bank's discretionary decision to commence payments early did not create such a right.

Court's Reasoning

The court reasoned that Section 811(c) requires a transfer of an interest in property. On January 21, 1944, the decedent had not yet fulfilled the requirements of the pension plan. He only had a hope or expectancy that rights might accrue to him. The plan stated he was entitled to the retirement annuity only if he was living and employed on February 1, 1949. The court distinguished cases involving annuity contracts purchased by the decedent, where the decedent had contractual rights at the time of the transfer. Here, the bank's request for early commencement of payments was discretionary, not a right of the decedent. The court cited *Illinois Merchants Trust Co., Executor, Estate of Edmund D. Hulbert, 12 B. T. A. 818* and *Estate of Emil A. Stake, 11 T.C. 817*, where discretionary payments to widows were not included in the gross estate because the decedent lacked a vested right. The court also distinguished *Estate of William J. Higgs, 12 T. C. 280*, because in that case, the decedent was the absolute owner of an annuity contract at the time he exercised his option.

Practical Implications

This case clarifies that for an annuity to be included in a decedent's gross estate as a transfer with retained life estate, the decedent must have possessed a present, enforceable property right to the annuity at the time of the alleged transfer (e.g., the election to reduce payments and provide for a survivor). A mere expectancy or contingent right, dependent on continued employment and employer discretion, is insufficient. This decision highlights the importance of examining the specific terms of pension plans and annuity contracts to determine the nature and extent of the decedent's rights at the time of any election or designation. It also demonstrates that employer discretion in making payments can negate a finding of a transfer by the employee.