16 T.C. 1152 (1951)

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U.S. Treasury bonds issued after March 1, 1941, and held in trust for a nonresident alien, are includible in her gross estate for estate tax purposes; funds held by a resident trustee in a general bank account for a nonresident alien beneficiary are not excludible as bank deposits "by or for" a nonresident alien.

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Summary

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The Tax Court addressed whether U.S. Treasury bonds held in trust for a nonresident alien were excludible from her gross estate for estate tax purposes, and whether cash deposits in the trust's bank accounts were also excludible as bank deposits "by or for" a nonresident alien. The court held that the bonds were includible, adhering to its previous stance despite contrary appellate rulings, and that the cash deposits were not excludible because they were held in an active trust, not directly for the benefit of the decedent. The court also determined the value of real estate holdings for estate tax purposes.

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Facts

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Fredericka Loewenstein, a nonresident alien and citizen of Switzerland, died in 1945. She had created an irrevocable trust in 1935, naming her brother as trustee, with broad powers to invest and manage the funds. Loewenstein was to receive all net income and up to 10% of the principal annually at the trustee's discretion. Upon her death, the remaining funds were to go to her son, Max Lowenstein, who later became the successor trustee. The trust's assets included U.S. Treasury bonds purchased after March 1, 1941, and cash in a trust account, as well as a share of another account holding real estate. The U.S. Treasury bonds stated they were subject to estate taxes.

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Procedural History

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Max S. Lowenstein, as executor of Fredericka Loewenstein’s estate, filed an estate tax return. The Commissioner of Internal Revenue determined a deficiency, arguing that certain U.S. bonds and cash deposits were improperly excluded from the gross estate, and that real estate values were underreported. The estate petitioned the Tax Court for a redetermination of the deficiency.

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Issue(s)

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1. Whether U.S. Treasury bonds with accrued interest, held in trust for a nonresident alien, are excludible from the gross estate under section 4 of the Victory Liberty Loan Act of 1919.

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2. Whether funds of an irrevocable trust created by a nonresident alien are excludible from the gross estate as bank deposits

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