14 T.C. 611 (1950)

Funds held in an active trust for the benefit of a nonresident alien are not considered “monies deposited…by or for” him and are therefore not excludable from the gross estate under Section 863(b) of the Internal Revenue Code.

Summary

The Tax Court addressed whether cash deposits held in trust bank accounts were excludable from the gross estate of a nonresident alien under Section 863(b) of the Internal Revenue Code and the proper valuation of real estate held in the trust. The court held that the funds, being part of an active trust, were not considered deposited “by or for” the decedent and thus not excludable. Additionally, the court adjusted the real estate values to reflect market conditions at the date of the decedent’s death, considering evidence of a post-war real estate price increase.

Facts

- The decedent, a nonresident alien, was the income beneficiary of a trust.
- At the time of her death, the trust held cash deposits in bank accounts.
- The trust also held six parcels of real estate.
- The trustee sold the properties after the decedent’s death, with one sale in 1945, four in 1946, and one in 1947.

Procedural History

The Commissioner determined deficiencies in the decedent’s estate tax. The estate petitioned the Tax Court for a redetermination of these deficiencies, contesting the inclusion of the bank deposits and the valuation of the real estate.

Issue(s)

1. Whether the cash deposits held in the bank accounts of the trust are excludable from the gross estate under Section 863(b) of the Internal Revenue Code as money deposited with a person carrying on the banking business, by or for a nonresident alien.
2. What is the appropriate valuation of the six parcels of real estate held in the trust for estate tax purposes?

Holding

1. No, because the funds were held in an active trust and not deposited “by or for” the decedent within the meaning of Section 863(b).
2. The values of the real estate are determined based on the evidence presented, adjusted to reflect market conditions at the date of the decedent’s death.

Court’s Reasoning

Regarding the bank deposits, the court distinguished the case from situations where funds were clearly intended for the nonresident alien's exclusive use or were held subject to their unconditional use. The court emphasized that because the funds were part of an active trust, managed by a trustee, they were not considered deposited "by or for" the decedent in the same way as a direct deposit. The court cited *City Bank Farmers Trust Co. v. Pedrick*, noting the similarity in that both cases involved active trusts where the nonresident alien did not have direct control over the funds. Regarding the real estate valuation, the court acknowledged the Commissioner's reliance on the post-death sale prices but found that these prices were inflated due to a sharp post-war increase in real estate values. The court considered all evidence to determine the values at the date of death. The court stated, "The evidence as a whole shows, we think, that the prices at which the properties were sold, one in 1945, four in 1946 and one in 1947, were somewhat higher than the values at the date of decedent's death, July 12, 1945. One of the reasons for this, according to the evidence, was a sharp advance in real estate prices, particularly of apartment properties such as most of these were, after the close of the war with Japan in the latter part of the summer of 1945."

Practical Implications

This case clarifies that funds held in active trusts for nonresident aliens are generally not exempt from estate tax as bank deposits under Section 863(b). It highlights the importance of the nature of the deposit and the level of control the nonresident alien has over the funds. Legal practitioners must carefully analyze the terms of any trust and the degree of control exercised by the nonresident alien beneficiary. This case also provides guidance on valuing real estate for estate tax purposes when post-death sales occur in a fluctuating market. Subsequent cases have cited *Estate of De Guebriant* to differentiate between funds held in fiduciary accounts versus funds directly controlled by the nonresident alien when determining estate tax liability.

