17 T.C. 160 (1951)

A gift in trust to a minor child is considered a future interest, ineligible for the gift tax exclusion, when the trustees have sole discretion to determine how much of the income, if any, is used for the child's maintenance, education, and support.

Summary

Frances McGuire Rassas created a trust for her infant daughter, Denice, naming herself and her husband as trustees. The trust stipulated that the trustees would pay income to Denice in quarterly installments, using their sole discretion to determine the amount necessary for her maintenance, education, and support, accumulating any unused income. The Tax Court held that this was a gift of future interest because the beneficiary's access to the income was not immediate or unrestricted, and therefore the gift did not qualify for the gift tax exclusion under Section 1003(b)(3) of the Internal Revenue Code.

Facts

Frances McGuire Rassas and her husband, George, established a trust on December 29, 1947, for their daughter, Denice, who was 19 days old. Frances contributed 50 shares of Peoples Gas Light & Coke Co. stock to the trust. The trust agreement stated that the trustees (Frances and George) would pay the income to Denice quarterly but only apply what they deemed necessary for her maintenance, education, and support during her minority, accumulating the rest. The Rassas's were financially stable and did not use any trust income for Denice's support.

Procedural History

The Commissioner of Internal Revenue determined a gift tax deficiency, disallowing an exclusion claimed by Frances Rassas on her 1947 gift tax return. Rassas contested the Commissioner's decision in the United States Tax Court.

Issue(s)

Whether a gift in trust to a minor child, where the trustees have discretionary power to distribute income for the child's maintenance, education, and support, 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 did not receive an immediate and unrestricted right to the use, possession, or enjoyment of the trust income. The trustee's discretionary power to determine how much income, if any, would be distributed made it a future interest, ineligible for the gift tax exclusion.

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Court’s Reasoning

The court relied on *Fondren v. Commissioner, 324 U.S. 18 (1945)*, which held that a gift effective only in the event of future need is not a present interest. The court emphasized that the trustees’ “sole discretion” in deciding how much income to distribute for Denice’s maintenance, education, and support meant that Denice did not have an immediate and unrestricted right to the income. The court stated, “Payment of such income to said minor shall be made by the Trustees paying and applying, in their *sole discretion*, so much of the income as may by them be deemed necessary for the maintenance, education and support of the said Denice Rassas during her minority…” Given the parents’ financial stability, the court inferred that the income was more likely to be accumulated than used for Denice’s immediate needs, reinforcing the future interest classification. The court distinguished *Commissioner v. Sharp, 153 F.2d 163 (1946)*, where the trust mandated immediate application of funds for the minor’s benefit. The court further distinguished *Kieckhefer v. Commissioner, 189 F.2d 118 (1951)*, because in that case the beneficiary had the right to terminate the trust.

Practical Implications

Rassas clarifies that granting trustees discretionary power over income distribution in a trust for a minor can transform what appears to be a present interest (the income stream) into a future interest for gift tax purposes. Attorneys drafting trusts intended to qualify for the gift tax exclusion must ensure the beneficiary has an immediate and unrestricted right to the income. This often involves structuring the trust to mandate income distribution or granting the beneficiary (or a guardian on their behalf) the power to demand distributions, as seen in the *Kieckhefer* case. Subsequent cases distinguish *Rassas* based on the degree of control the beneficiary has over accessing the trust funds. It highlights the importance of careful drafting to achieve the desired tax consequences when making gifts in trust, especially for minors.

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