19 T.C. 708 (1953)

r
r

A gift is considered complete for gift tax purposes when assets are transferred from a trust that is not expressly irrevocable, indicating the donor's relinquishment of control over the property.

r
r

Summary

r

The Tax Court held that the transfer of assets from a trust to a guardianship estate constituted a taxable gift because the trust was not expressly made irrevocable. The donor, Newman, created a trust for her daughter, but the trust instrument lacked an explicit statement of irrevocability as required by California law. Upon the trust's termination and transfer of assets to a guardianship, the IRS assessed a gift tax. The court determined that the transfer in 1946, not the initial trust creation in 1943, constituted the completed gift. Additionally, the court excluded a disputed overpayment of income tax from the gift's value.

r
r

Facts

r

Newman owned stock in Aztec Brewing Company. In 1943, she transferred 800 shares to her attorney, Goldman, to hold in trust for her daughter. Goldman orally declared himself trustee, and later executed a written trust document, predated to January 1, 1943, but the declaration did not expressly state the trust was irrevocable. Newman filed gift tax returns for 1943, reporting the gift. In 1946, Goldman died, and a successor trustee was appointed. The trust assets were then transferred to a guardianship estate for Newman's daughter. The IRS determined that this transfer was the taxable gift.

r
r

Procedural History

r

© 2025 SCOTUSreports.com. All rights reserved.

The IRS assessed a gift tax deficiency for 1946. Newman petitioned the Tax Court, arguing the gift was completed in 1943 with the creation of the trust. The Tax Court upheld the IRS determination that the gift occurred in 1946. Newman also had a separate case before the court regarding income tax deficiencies related to the trust income.

r
r

Issue(s)

r

1. Whether the transfer of property to a trust in 1943 constituted a completed gift, or whether the completed gift occurred in 1946 upon termination of the trust and distribution of the corpus?

r

2. Whether the gift in 1946 included a disputed item described as

© 2025 SCOTUSreports.com. All rights reserved.