20 T.C. 474 (1953)

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A transfer with a retained reversionary interest contingent upon events other than the grantor’s death can still be included in the gross estate for estate tax purposes if the beneficiary’s interest is conditional until the grantor’s death.

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Summary

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Frank Thacher created six irrevocable trusts, five for his children and one for his wife. The IRS sought to include the value of the trusts in his gross estate, arguing they were made in contemplation of death. The Tax Court held that the children’s trusts were not made in contemplation of death and therefore not includible. However, the court found that the wife’s trust, which included a reversionary interest for Thacher if they divorced or legally separated, was includible in his estate to the extent of the wife’s life interest, as her interest was conditional until his death.

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Facts

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Frank Thacher created five trusts in 1922, four for his children and one for his wife, Catharine. He created another trust in 1924 for a newly born child. Each trust was funded with $100,000 in life insurance policies on Thacher’s life and approximately $95,000 in securities. The trusts were irrevocable, and the trustee had the right to manage the assets. For the children’s trusts, income was used for premiums and support, with the remainder paid to the child at 21, then for life, with the corpus passing to their issue or as they appointed. The wife’s trust differed: Thacher retained a reversionary interest if they divorced or legally separated or if she predeceased him. At the time of creation, Thacher was healthy, active, and sought to protect his family from potential losses from his speculative investments.

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Procedural History

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The Commissioner of Internal Revenue determined a deficiency in Frank Thacher's estate tax. The executors of the estate, including Provident Trust Company and Catharine Thacher, petitioned the Tax Court for a redetermination. The Tax Court addressed several issues, including whether the trust transfers were made in contemplation of death and the includibility of the wife's trust interest.

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Issue(s)

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1. Whether the value of the corpora of the six irrevocable trusts is includible in the decedent's gross estate as transfers made in contemplation of death under Section 811(c) of the Internal Revenue Code.

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2. Whether the value of the wife's life interest in her trust should be included in the decedent's gross estate under Section 811(c) of the Internal Revenue Code, considering the retained reversionary interest in case of divorce or legal separation.

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3. Whether debts allegedly owed by the decedent to certain of his children are deductible from the gross estate.

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Holding

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1. No, because the transfers to the children's trusts were motivated by lifetime concerns, specifically safeguarding the family from potential financial losses due to the decedent's speculative investments.

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2. Yes, because the wife's life estate was conditional upon the absence of divorce or legal separation until the decedent's death, and the decedent retained a reversionary interest whose value was not proven to be less than 5% of the trust corpus.

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3. No, because the executors failed to provide sufficient evidence to establish that these were legally enforceable claims against the estate.

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Court’s Reasoning

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The court reasoned that transfers made in contemplation of death are substitutes for testamentary dispositions. For the children’s trusts, the court found Thacher’s dominant motive was to protect his family from financial risks associated with his speculative investments, a life-related motive. The court emphasized that Thacher was relatively young and healthy when he created the trusts. Regarding the wife’s trust, the court acknowledged her immediate right to income but highlighted the retained reversionary interest triggered by divorce or legal separation. Because the wife’s life estate was subject to termination until Thacher’s death, it was considered a transfer

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