27 T.C. 601 (1956)

Gifts in trust for minors, where the beneficiaries, their guardians, or their parents have the right to demand income or principal, are considered gifts of present interests, thus qualifying for the annual gift tax exclusion, even if the exercise of the right is not immediately expected.

Summary

The United States Tax Court considered whether gifts to trusts for minor grandchildren qualified for the annual gift tax exclusion. The trusts allowed the beneficiaries, their guardians, or parents to demand income or principal. The Commissioner argued the gifts were of future interests because the minors were unlikely to make demands. The court held that the gifts were of present interests because the power to demand was available to the parents, creating no substantial barrier to immediate use, possession, or enjoyment. The court emphasized that the legal right, not the likelihood of exercise, determined the nature of the gift, thus allowing the annual exclusions claimed by the donors.

Facts

George and Linn Perkins created separate irrevocable trusts for each of their seven grandchildren. The trust agreements were identical, with the parents of each beneficiary, along with the Perkins and a bank, as trustees. The gifts consisted of shares of corporate stock made during 1951, 1952, and 1953. The beneficiaries were minors. The trust instruments stated that each beneficiary, their parent, or guardian, could demand and receive income or principal at any time. The parents of the beneficiaries were financially capable of supporting the children, and it was not anticipated they would demand income or principal from the trusts. No guardians were appointed except for one beneficiary in 1953. The Perkins claimed annual gift tax exclusions for each beneficiary, which the Commissioner disallowed, arguing the gifts were of future interests.

Procedural History

The Commissioner of Internal Revenue determined deficiencies in the gift tax paid by George and Linn Perkins, disallowing the annual exclusions. The Perkinses petitioned the United States Tax Court, disputing the Commissioner’s determination. The Tax Court heard the case based on stipulated facts and entered decisions for the petitioners.

Issue(s)

Whether the gifts in trust constituted gifts of future interests, thereby precluding the annual exclusion under the gift tax laws.

Holding

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Yes, the gifts were of present interests because the parents of the beneficiaries had the power to demand and receive the trust's income or principal. The court found that this power, even if it was not expected to be exercised, created no substantial barrier to the beneficiaries' immediate enjoyment of the gifts, which is required to qualify for the annual gift tax exclusion.

Court's Reasoning

The court focused on whether there was a

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