***Estate of Moreno v. Commissioner*, 28 T.C. 889 (1957)**

The reciprocal trust doctrine can apply to estate taxes when trusts are created in exchange for each other, effectively reversing the settlors and including the value of the trust in the gross estate of the other.

**Summary**

The Estate of Florence Moreno challenged the IRS's inclusion of a trust established by her husband, Theodore, in her gross estate for estate tax purposes. Both Florence and Theodore established substantially identical, irrevocable life insurance trusts for each other's benefit. The court applied the reciprocal trust doctrine, finding that the trusts were created in consideration of each other, thereby 'uncrossing' them. The court held that because Florence had effectively created a trust for her benefit, the value of the trust assets at the time of her death was includible in her gross estate under Section 811(c)(1)(B) of the 1939 Internal Revenue Code because she retained a beneficial interest and Section 811(c)(1)(C) because of the ability to invade the corpus for her benefit. The court's decision underscores the importance of considering the economic realities of transactions, not just their form, for tax purposes.

**Facts**

Florence and her husband, Theodore, each created nearly identical, irrevocable life insurance trusts. Florence transferred $125,000 in paid-up insurance on her life into a trust, with income to Theodore for life and remainder to their children. Theodore contemporaneously amended an existing trust, transferring $125,000 in paid-up insurance on his life, with income to Florence for life and remainder to their children. Both trusts allowed for invasion of the corpus for the beneficiary's reasonable care and comfort. Both Florence and Theodore were advised by an insurance agent and a trust officer that these trusts would result in tax savings. Florence died first, and the IRS sought to include Theodore's trust in her estate under the reciprocal trust doctrine.

**Procedural History**

The IRS determined a deficiency in Florence Moreno's estate tax, arguing that Theodore's trust should be included in her gross estate. The estate contested this determination in the United States Tax Court. The Tax Court upheld the IRS's assessment, leading to this decision.

**Issue(s)**

1. Whether the value of Theodore's trust, where he was the settlor, should be included in Florence's gross estate for federal estate tax purposes.

2. Whether the trusts were reciprocal, meaning that Florence's trust served as

© 2025 SCOTUSreports.com. All rights reserved. 

consideration for the creation of Theodore’s trust.

**Holding**

1. Yes, because the trusts were reciprocal, the value of Theodore’s trust was includible in Florence’s gross estate.

2. Yes, the trusts were reciprocal because they were created in consideration of each other.

**Court’s Reasoning**

The court relied heavily on the reciprocal trust doctrine, established in *Lehman v. Commissioner*. This doctrine states that if two parties create similar trusts for each other’s benefit, with each trust designed to benefit the other, then the IRS can

© 2025 SCOTUSreports.com. All rights reserved. 