***Estate of Want v. Commissioner*, 29 T.C. 1246 (1958)**

The court considered whether certain transfers made by the decedent were made in contemplation of death, determining whether the thought of death was the impelling cause of the transfer, and also addressed the inclusion of certain assets in the gross estate for estate tax purposes.

Summary

The U.S. Tax Court addressed several issues concerning the estate tax liability of Jacob Want. The primary issue was whether certain transfers made by the decedent were made in contemplation of death, thus includible in the gross estate under the Internal Revenue Code. The court also addressed the res judicata effect of a South Carolina court decision, the valuation of stock, and the nature of consideration for certain transfers. The court ultimately held that the transfers were not made in contemplation of death, finding that the decedent's primary motive was to provide for the financial security of his daughter. The court also made determinations on other issues, including the inclusion of bonds in the gross estate and the valuation of stock, ultimately siding with the petitioners on most issues, but deferring on others.

Facts

- The decedent, Jacob Want, made transfers to a trust for his daughter, Jacqueline, and made other transfers to a third party, Blossom Ost.
- The Commissioner of Internal Revenue determined that these transfers were made in contemplation of death and included them in the decedent's gross estate for estate tax purposes.
- The decedent also transferred $25,000 worth of U.S. Treasury bonds to Samuel and Estelle for the care of Jacqueline.
- In addition, the decedent gifted 397 shares of common stock of a corporation to Samuel and Estelle, as trustees for Jacqueline.
- The Commissioner determined the value of the stock based on the book value of the shares.
- The Tax Court was presented with the issues related to the inclusion of assets in the estate for tax purposes.

Procedural History

- The Commissioner of Internal Revenue assessed estate tax deficiencies.
- The Estate of Want petitioned the U.S. Tax Court for a redetermination of the deficiencies.
- The Tax Court considered the evidence and arguments presented by both parties.
- The Tax Court ruled on the issues presented, including whether transfers were made in contemplation of death and the valuation of certain assets.

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Issue(s)

1. Whether the decision of a South Carolina court made the issues before the court *res judicata*.
2. Whether the transfers made by the decedent to Jacqueline's trust were properly included in the petitioner's gross estate as transfers made in contemplation of death.
3. Whether the transfers of the $25,000 worth of Treasury bonds was made for full and adequate consideration.
4. Whether the decedent's gift of 397 shares of common stock to Samuel and Estelle, trustees for Jacqueline, had any fair market value as of the date of gift and, if so, what that value was.
5. Whether petitioners could offset against any gift tax liability the $2,500 deposited by Blossom Ost.
6. Whether Estelle had liability for the deficiencies here involved.

Holding

1. No, the decision of the South Carolina court did not make the issues *res judicata*.
2. No, the transfers made by the decedent to Jacqueline's trust were not made in contemplation of death.
3. Yes, the transfer of the Treasury bonds was made for full and adequate consideration.
4. No, based on the facts, the shares had no fair market value on the date of gift.
5. No, petitioners could not offset against any gift tax liability the $2,500 deposited by Blossom Ost.
6. Yes, Estelle was liable for the deficiencies.

Court's Reasoning

The court first addressed whether the South Carolina court decision was *res judicata*, finding that the state court did not adjudicate the federal tax liabilities. Regarding the transfers to Jacqueline's trust, the court stated that the words "in contemplation of death" mean the thought of death is "the impelling cause of the transfer." The court found that the decedent's primary concern was for the welfare and financial security of his daughter. The court considered that he had other pressing concerns besides any concerns over his health. The court referenced the case of *United States v. Wells*, 283 U. S. 102, which explained that the "controlling motive" must be the thought of death to include a gift in the estate. The court held that the controlling motive was not the thought of death but providing for his daughter. The court also addressed other sections of the Internal Revenue Code, but the analysis hinged on whether the transfers were in contemplation of death. In addition, the court considered whether the Treasury bonds were transferred for consideration, and decided the transfer was made for adequate consideration. Finally, the court considered the value of the stock given, and decided the value was

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zero based on the financial health of the company.

Practical Implications

- This case underscores the importance of analyzing the decedent's motives when determining whether a transfer was made in contemplation of death.
- Attorneys should gather extensive evidence regarding the decedent's health, relationships, and financial concerns at the time of the transfer to determine the impelling cause for the gift.
- The case highlights the significance of considering the actual facts regarding value, even if they were not publicly known.
- Practitioners must understand the specific facts and circumstances surrounding a transfer to determine the tax implications, especially considering the facts surrounding the decedent's health and motivations.
- When assessing gift tax and estate tax liability, the nature of the consideration and the valuation of assets are crucial factors.

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