***Estate of Elizabeth Annis Hutchinson, Charles H. McConnell, Executor, Petitioner v. Commissioner of Internal Revenue, Respondent, 51 T. C. 874 (1969)***

A charitable deduction is not allowed for testamentary trusts where the charitable remainder interest lacks a presently ascertainable value due to contingencies affecting the trust corpus.

**Summary**

Elizabeth Annis Hutchinson's will established four trusts (A, B, C, and D) with remainders to the Board of Regents of Iowa. The trusts were designed to benefit family members, with Trust D primarily funding education for descendants. The IRS denied a charitable deduction for the remainder interest because the trusts' corpus could be invaded to meet beneficiary distributions, making it uncertain if any funds would reach the charity. The Tax Court agreed, finding that the possibility of corpus exhaustion was not remote enough to allow a deduction under IRC § 2055(a).

**Facts**

Elizabeth Annis Hutchinson died in 1963, leaving a will that divided her residuary estate into four trusts. Trusts A, B, and C were for the benefit of her son, daughter, and other relatives, with provisions for income distribution and potential corpus invasion. Trust D was for educational benefits for descendants, with any remainder going to the Board of Regents of Iowa to establish a scholarship fund. The trusts could last approximately 100 years, and the corpus could be invaded if income was insufficient for required distributions or if beneficiaries faced financial hardship.

**Procedural History**

The estate claimed a charitable deduction for the remainder interest in the trusts. The IRS disallowed the deduction, asserting the charitable gift's value was not ascertainable at the time of the decedent's death. The Estate of Hutchinson appealed to the United States Tax Court.

**Issue(s)**

1. Whether the charitable remainder interest in the trusts established by Elizabeth Annis Hutchinson's will had a presently ascertainable value at the time of her death, making it deductible under IRC § 2055(a).

**Holding**

1. No, because the possibility of the trust corpus being exhausted before the charitable gift could take effect was not so remote as to be negligible, and the charitable gift's value was not ascertainable at the time of the decedent's death.

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## Court’s Reasoning

The Tax Court applied the rule from *Merchant’s Bank v. Commissioner* that a charitable deduction is allowed only if the bequest has a presently ascertainable value at the testator’s death. The court found that the trusts’ provisions allowing corpus invasion for beneficiary support and education created significant uncertainty about any remainder for charity. The court noted the trusts’ long duration (about 100 years) and the potential for numerous beneficiaries, including unborn descendants, making it impossible to predict the amount of corpus that might remain for the Board of Regents. The court cited *Humes v. United States* and *Commissioner v. Sternberger’s Estate* to support its conclusion that the contingency of corpus exhaustion was too substantial to allow a deduction.

## Practical Implications

This decision underscores the importance of clear and predictable conditions for charitable bequests in testamentary trusts. Practitioners must ensure that any charitable remainder interest is not contingent on factors that could lead to its complete depletion, such as broad discretionary powers to invade corpus for private beneficiaries. The case highlights the difficulty in valuing remainder interests when trusts are designed to last for extended periods with multiple beneficiaries. Estate planners should consider using more definite standards for corpus invasion or creating separate trusts for charitable and private beneficiaries to secure charitable deductions. Subsequent cases like *Estate of Dorsey* and *Griffin v. United States* have similarly denied deductions for charitable remainders when the trusts’ provisions were too uncertain.

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