***Estate of Hector R. Skifter, Deceased, Janet Skifter Kelly and the Chase Manhattan Bank (National Association), Executors, Petitioners v. Commissioner of Internal Revenue, Respondent, 56 T. C. 1190 (1971)***

Life insurance proceeds are not includable in the decedent's gross estate unless the decedent possessed incidents of ownership at death, and trust assets are includable if the decedent retained the power to distribute or accumulate trust income.

**Summary**

Hector Skifter transferred ownership of nine life insurance policies to his wife over three years before his death. After her death, the policies became part of a testamentary trust where Skifter served as trustee but could not benefit personally. The court held that the proceeds were not includable in Skifter's estate under IRC section 2042(2) as he lacked incidents of ownership. However, three trusts Skifter established for his grandchildren were includable in his gross estate under IRC section 2036(a)(2) because he retained the power to distribute or accumulate income, thus designating the beneficiaries' enjoyment of the trust assets.

**Facts**

More than three years before his death, Hector Skifter assigned all interest in nine insurance policies on his life to his wife, Naomi. After Naomi's death, the policies were transferred into a testamentary trust created by her will, with Skifter named as trustee. Skifter had no personal interest in the policies and could not exercise any powers for his own benefit. Skifter also established three irrevocable "accumulation" trusts for his grandchildren, funding each with Cutler-Hammer, Inc. , stock and serving as the sole trustee with the power to distribute or accumulate income during the beneficiaries' minority.

**Procedural History**

The Commissioner determined a deficiency in Skifter's estate tax, asserting that the insurance proceeds and the value of the three trusts should be included in his gross estate. The estate contested this determination, leading to the case being heard by the United States Tax Court.

**Issue(s)**

1. Whether the proceeds of nine life insurance policies on Skifter's life are includable in his gross estate under IRC section 2042(2).
2. Whether the value of the property in the three trusts created by Skifter is includable in his gross estate under IRC sections 2036 or 2038.

**Holding**

1. No, because Skifter did not possess any incidents of ownership in the policies at

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his death, having transferred them to his wife over three years prior, and his role as trustee did not confer such rights.
2. Yes, because Skifter retained the power to distribute or accumulate the income of the trusts, thus designating the beneficiaries under IRC section 2036(a)(2).

**Court’s Reasoning**

The court reasoned that under IRC section 2042(2), life insurance proceeds are only includable in the gross estate if the decedent possessed incidents of ownership at death. Skifter had transferred all rights to the policies to his wife more than three years before his death and, as trustee, could not exercise any powers for his own benefit, thus lacking incidents of ownership. For the trusts, the court applied IRC section 2036(a)(2), holding that Skifter’s power to distribute or accumulate income allowed him to designate the beneficiaries’ enjoyment of the trust assets. The court rejected the estate’s argument that New York law imposed sufficient external standards on Skifter’s discretion over income, finding his power broad and unrestricted. The court emphasized that Congress intended to treat life insurance similarly to other property, excluding proceeds from the estate unless the decedent retained control at death.

**Practical Implications**

This decision clarifies that life insurance proceeds are not automatically includable in the estate merely because the decedent served as a trustee of a trust holding the policies, provided they have no personal benefit or incidents of ownership. Estate planners must ensure complete relinquishment of control over policies to avoid estate inclusion. Conversely, when setting up trusts, retaining broad discretion over income distribution can result in the trust assets being included in the grantor’s estate. This ruling impacts estate planning strategies, emphasizing the importance of carefully structuring transfers and trusts to minimize estate tax exposure. Subsequent cases have applied this ruling, reinforcing the need for clear separation of control and benefit in estate planning.

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