***Estate of Beatrice M. Labombarde, Raymond A. Labombarde, Philip deG. Labombarde, and Yvette L. Chagnon, Coexecutors, Petitioner v. Commissioner of Internal Revenue, Respondent, 58 T. C. 745 (1972)***

Family financial support intended as gifts rather than loans does not constitute deductible debt under Internal Revenue Code Section 2053.

**Summary**

Following the death of Beatrice M. Labombarde in 1968, her children sought to deduct from her estate the amounts they had transferred to her over the years as loans. The Tax Court held these transfers were gifts, not loans, and thus not deductible under Section 2053. The court determined that the children's intention to support their mother, the lack of any contemporaneous documentation of a debt, and the absence of a bona fide debtor-creditor relationship precluded the deduction. Additionally, the court found that the transfer of Beatrice's interest in a Florida property to her children was made in contemplation of death and thus taxable under Section 2035.

**Facts**

Beatrice M. Labombarde's husband died in 1951, and her three children, Raymond, Philip, and Yvette, began providing her with financial support in 1952 or 1953. They agreed to give her approximately $5,000 per year to ensure her comfort, which they did without any formal agreement or expectation of repayment. In 1966, after consulting with a tax attorney, Beatrice signed acknowledgments of indebtedness for the amounts received, but these were not accompanied by any repayment schedule or interest terms. Beatrice also transferred her interest in a Florida property to her children, which she continued to use during the winters.

**Procedural History**

The executors of Beatrice's estate filed a Federal estate tax return claiming deductions for the amounts supposedly loaned to Beatrice. The Commissioner of Internal Revenue determined a deficiency, leading the executors to petition the Tax Court. The court ruled that the transfers were gifts, not loans, and thus not deductible under Section 2053. It also found the transfer of the Florida property to be in contemplation of death and taxable under Section 2035.

**Issue(s)**

1. Whether money paid to or on behalf of Beatrice by her children constitutes an indebtedness deductible under Section 2053(a) as a claim against her estate.
2. Whether the conveyance by Beatrice of an interest in Florida realty to her children 14 months prior to her death was a transfer in contemplation of death under Section 2035.

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## Holding

1. No, because the transfers were intended as gifts, not loans, and lacked the necessary elements to constitute a valid debt under New Hampshire law and a bona fide debt under Section 2053(c).
2. Yes, because the transfer was made in contemplation of death, as evidenced by its timing and purpose, thus taxable under Section 2035.

## Court's Reasoning

The court analyzed whether the transfers were gifts or loans based on the intent of the parties at the time of the transfers. It found no evidence of a debtor-creditor relationship or any expectation of repayment until the tax implications were considered in 1966. The court cited New Hampshire law that a gift is a voluntary transfer without consideration, while a loan requires an agreement to repay. The lack of contemporaneous evidence of a debt, the unilateral nature of the support decision, and the absence of repayment terms on the acknowledgments led the court to conclude the transfers were gifts. Additionally, the court applied Section 2053(c), which requires a bona fide debt for a deduction, and found the transfers did not meet this standard. Regarding the Florida property, the court held that its transfer was made in contemplation of death, as it was part of a broader estate planning effort to minimize taxes, and thus taxable under Section 2035.

## Practical Implications

This decision emphasizes the importance of clear, contemporaneous documentation of loans within families to establish a valid debt for tax purposes. It highlights that financial support intended as gifts cannot later be recharacterized as loans to gain tax benefits. Practitioners should advise clients on the need for formal agreements, repayment terms, and interest if they wish to establish a bona fide debt. The ruling also underscores the application of the three-year rule under Section 2035, reminding estate planners to consider the tax implications of property transfers made close to death. Subsequent cases, such as *Estate of Honickman*, have followed this precedent in assessing the intent behind intrafamily transfers and their tax consequences.

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