Estate of Joseph G. Gokey, Deceased, Mildred A. Gokey, Executor, Petitioner v. Commissioner of Internal Revenue, Respondent; Mildred A. Gokey, Transferee and Trustee of the Joseph G. Gokey Revocable Trust (Created January 3, 1967) and the First National Bank of Chicago, Transferee and Trustee of the Joseph G. Gokey Revocable Trust (Created January 3, 1967), Petitioners v. Commissioner of Internal Revenue, Respondent, 72 T. C. 721 (1979)

Assets of irrevocable trusts are included in the gross estate if trust income is used to fulfill the settlor's legal support obligation to minor children.

Summary

In Estate of Gokey, the Tax Court held that the value of two irrevocable trusts created by the decedent for his minor children were includable in his gross estate under Section 2036. The trusts were deemed support trusts because their income was required to be used for the children's support, care, welfare, and education. The court rejected the argument that the trustees had discretion in applying trust income, finding the trust terms mandated its use for support. Additionally, the court valued the children's remainder interests in another trust at $66,245. 78 each, despite arguments that their value was zero due to spendthrift clauses and powers of invasion.

Facts

Joseph G. Gokey created irrevocable trusts on October 1, 1961, for his children Gretchen and Patrick, then aged 7 and 5. The trust agreement mandated that the trustee use the net income for the children's support, care, welfare, and education until they reached 21 years old. Any unused income was to be accumulated and added to the principal. After turning 21, the children were to receive all net income, with principal available for their support at the trustee's discretion. Gokey also created a trust for his wife, Mildred, granting her a life estate with remainder interests to the children's trusts. At Gokey's death in 1969, the trusts held significant assets, and the IRS sought to include their value in his estate.

Procedural History

The Commissioner determined a deficiency in Gokey's federal estate tax and assessed transferee liability against the trustees of his trusts. The estate and trustees filed petitions with the U. S. Tax Court, which consolidated the cases. The court heard arguments on whether the children's trusts were includable in the estate under Section 2036 and the valuation of their remainder interests in Mildred's trust.

Issue(s)

1. Whether the value of the irrevocable trusts for Gretchen and Patrick should be

included in Gokey's gross estate under Section 2036(a)(1) because the trust income was applied toward his legal obligation to support his minor children.
2. Whether the value of the children's remainder interests in Mildred's trust should be valued at zero due to spendthrift clauses and the power of invasion in favor of the life tenant.

Holding

1. Yes, because the trust income was required to be used for the children's support, care, welfare, and education, fulfilling Gokey's legal obligation.
2. No, because despite the spendthrift clauses and power of invasion, the remainder interests were valued at $66,245. 78 each.

Court's Reasoning

The court interpreted the trust language as mandating the use of income for the children's support, not merely allowing it at the trustee's discretion. It relied on Illinois law to find that the terms "support, care, welfare, and education" created an ascertainable standard equivalent to the children's accustomed standard of living. The court distinguished cases where trustees had true discretion, emphasizing that the Gokey trusts required income be used for support, thus falling under Section 2036. On valuation, the court rejected the argument that the remainder interests were worthless, noting that such interests have value even when subject to spendthrift clauses and powers of invasion limited by an ascertainable standard.

Practical Implications

This decision impacts estate planning by clarifying that irrevocable trusts will be included in the gross estate if their income is required to be used for the settlor's legal support obligations. Practitioners must carefully draft trust terms to avoid unintended estate inclusion. The ruling also affects valuation practices, confirming that remainder interests retain value despite restrictions. Subsequent cases have applied this principle, particularly in determining when trust assets are includable under Section 2036. This case underscores the importance of precise language in trust instruments and the need to consider state law standards when drafting trusts to avoid estate tax consequences.

