Estate of Cristofani v. Commissioner, 97 T. C. 74 (1991)

A beneficiary's unrestricted right to withdraw a portion of trust corpus within a limited time following a contribution qualifies as a present interest for purposes of the gift tax annual exclusion.

Summary

Maria Cristofani created an irrevocable trust, contributing property in 1984 and 1985, with her two children as primary beneficiaries and five grandchildren as contingent remaindermen. The trust allowed all beneficiaries to withdraw up to the annual gift tax exclusion amount within 15 days of each contribution. The Commissioner disallowed the exclusions for the grandchildren, arguing their interests were future, not present. The Tax Court, following Crummey v. Commissioner, held that the grandchildren's withdrawal rights constituted a present interest, allowing Cristofani to claim annual exclusions for them, as their legal right to withdraw was not resistible by the trustees.

Facts

Maria Cristofani established an irrevocable trust on June 12, 1984, naming her children, Frank Cristofani and Lillian Dawson, as trustees and primary beneficiaries. Her five grandchildren were designated as contingent remaindermen. Cristofani transferred a 33% interest in real property valued at $70,000 to the trust in both 1984 and 1985. The trust allowed each beneficiary to withdraw up to the annual gift tax exclusion amount ($10,000) within 15 days following each contribution. No withdrawals were made by the grandchildren, who were minors, but they had the legal right to do so. Cristofani claimed annual exclusions for her children and grandchildren for these contributions.

Procedural History

The Commissioner of Internal Revenue determined a deficiency in Cristofani's estate tax, disallowing the annual exclusions claimed for her grandchildren's interests in the trust. The Estate of Cristofani petitioned the U. S. Tax Court for a redetermination of the deficiency. The Tax Court reviewed the case and entered a decision for the petitioner, allowing the annual exclusions for the grandchildren.

Issue(s)

1. Whether the right of the grandchildren to withdraw an amount not exceeding the section 2503(b) exclusion within 15 days of a contribution to the trust constitutes a gift of a present interest in property within the meaning of section 2503(b).

Holding

1. Yes, because the grandchildren's legal right to withdraw trust corpus within 15

days following a contribution was an unrestricted present interest in property under the principles established in Crummey v. Commissioner.

Court's Reasoning

The Tax Court relied on the precedent set by Crummey v. Commissioner, which held that a beneficiary's legal right to demand immediate possession of trust corpus constitutes a present interest for gift tax purposes. The court rejected any test based on the likelihood of actual withdrawal, focusing instead on the legal right to withdraw. The court noted that the grandchildren's right to withdraw was not legally resistible by the trustees, and there was no agreement that they would not exercise this right. The court also found that Cristofani intended to benefit her grandchildren, evidenced by their contingent remainder interests and withdrawal rights. The court emphasized that the motive behind creating the withdrawal rights (to obtain tax benefits) was irrelevant to their legal effect as present interests.

Practical Implications

This decision solidifies the use of Crummey powers in estate planning to qualify transfers to trusts for the annual gift tax exclusion. Attorneys should ensure that trust instruments clearly grant beneficiaries the legal right to withdraw a portion of contributions, and that this right is not illusory or legally resistible. The ruling expands the flexibility in structuring trusts to benefit multiple generations while minimizing gift taxes. Subsequent cases and IRS guidance have generally followed Cristofani, affirming that properly structured withdrawal rights qualify as present interests, even for minor beneficiaries. This case remains a key authority for practitioners designing trusts to take advantage of the annual exclusion.

