

Summary

Stephens et al., Federal Estate and Gift Taxation,

¶ 4.08[4][c] (footnote numbers and footnotes,
other than n. 42, omitted).

"Section 2036(a)(1) requires that the decedent retain either 'possession or enjoyment' or 'the right to the income.' If he has no legal right to income, the 'income' phrase would not support inclusion under Section 2036. Perhaps it may be said he has retained 'enjoyment.' However, if some meaning is to be accorded the word 'retained,' some showing of an arrangement, more than the fact that income was paid to the decedent, should be required. . . . Since such transfers are treated as complete when made for gift tax purposes there is even less reason for the imposition of estate tax liability under Section 2036."