

Opinion of the Court.

POWERS v. COMMISSIONER OF INTERNAL
REVENUE.

CERTIORARI TO THE CIRCUIT COURT OF APPEALS FOR THE
FIRST CIRCUIT.

No. 486. Argued January 7, 1941.—Decided February 3, 1941.

Determination of the criterion of "value" for the purposes of the gift tax under the Revenue Act of 1932 is a question of law, and a decision of the Board of Tax Appeals that in the case of single-premium policies of life insurance, irrevocably assigned as gifts shortly after issuance, the value of the gifts was the cash surrender value of the policies, was properly reversed by the Circuit Court of Appeals as "not in accordance with law." *Guggenheim v. Rasquin*, ante p. 254. P. 260.

115 F. 2d 209, affirmed.

CERTIORARI, 311 U. S. 640, to review the reversal of a decision of the Board of Tax Appeals setting aside a determination of a deficiency in a gift tax.

Mr. Ralph G. Boyd for petitioner.

Mr. J. Louis Monarch, with whom *Solicitor General Biddle*, *Assistant Attorney General Clark*, and *Messrs. Sewall Key*, *Arnold Raum*, and *Joseph M. Jones* were on the brief, for respondent.

MR. JUSTICE DOUGLAS delivered the opinion of the Court.

The issue in this case is the same as that in *Guggenheim v. Rasquin*, ante, p. 254. Petitioner in November and December, 1935, purchased single-premium policies of insurance on her own life and late in December, 1935, irrevocably assigned them as gifts. The Commissioner determined a deficiency, claiming that the value of the policies for gift-tax purposes was the cost of duplicating them at the dates of the gifts, not the cash-surrender

value as reported by petitioner. The Board of Tax Appeals held that the value of the gifts was their cash-surrender value. The Circuit Court of Appeals reversed. 115 F. 2d 209. That judgment must be affirmed on the authority of *Guggenheim v. Rasquin, supra*, unless as claimed by petitioner the court below was precluded from substituting its judgment of value for that of the Board. *Helvering v. Rankin*, 295 U. S. 123, 131. But the question of what criterion should be employed for determining the "value" of the gifts is a question of law. See *Lucas v. Alexander*, 279 U. S. 573. Accordingly, the Circuit Court of Appeals was justified in reversing the decision of the Board as "not in accordance with law." Int. Rev. Code 1939, § 1141 (c) (1); 53 Stat. 164.

Affirmed.

UNITED STATES *v.* RYERSON ET AL., EXECUTORS.

CERTIORARI TO THE CIRCUIT COURT OF APPEALS FOR THE SEVENTH CIRCUIT.

No. 494. Argued January 7, 1941.—Decided February 3, 1941.

The lapse of time between the issuance of single-premium policies of life insurance and their assignment as gifts, *held* not to justify the substitution of cash surrender value, instead of replacement cost at the date of the gift, as the criterion of value for the purposes of the gift tax under the Revenue Act of 1932. P. 261.

114 F. 2d 150, reversed.

CERTIORARI, 311 U. S. 640, to review the reversal of a judgment, 28 F. Supp. 265, for the taxpayer in a suit to recover alleged overpayments of gift taxes.

Mr. J. Louis Monarch, with whom *Solicitor General Biddle*, *Assistant Attorney General Clark*, and *Messrs. Sewall Key* and *Edward First* were on the brief, for the United States.