NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Lumber Co.,* 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

UNITED STATES *v.* IRVINE ET AL.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT

No. 92–1546. Argued December 6, 1993—Decided April 20, 1994

As a result of Sally Ordway Irvine's 1979 disclaimer of five-sixteenths of her interest in the corpus of a recently terminated trust that had been created by her grandfather in 1917, each of her five children received one-sixteenth of her share of the distributed trust principal. Her disclaimer was effective under Minnesota law even though she had learned of her contingent interest in the trust at least as early as 1931 when she became 21, but the Internal Revenue Service determined that the disclaimer brought about a gratuitous transfer that was subject to federal gift tax under Internal Revenue Code §§2501(a)(1) and 2511(a). Mrs. Irvine died after she paid the tax and accrued interest, and respondents, representing her estate, filed this refund action. Arguing that the transaction was not excepted from gift tax under Treasury Regulation §25.2511–1(c)(2) (Regulation), the Government relied on *Jewett* v. *Commissioner,* 455 U. S. 305, in which this Court construed the 1958 version of the Regulation to provide that the disclaimer of a remainder interest in a trust effects a taxable gift to the beneficiary of the disclaimer unless the disclaimant acts within a reasonable time after learning of the transfer that created the interest being disclaimed. Respondents attempted to distinguish *Jewett* as having dealt with a trust established in 1939, after the creation of the gift tax by the Revenue Act of 1932 (Act). The District Court ruled for respondents on cross-motions for summary judgment. The Court of Appeals affirmed, holding that the Regulation's express terms rendered it inapplicable to the trust in question; that state law therefore governed, and the federal gift tax did not apply because Mrs. Irvine's disclaimer was indisputably valid under state law; and that taxation of the transfer effected by the disclaimer would violate the Act's prohibition of retroactive gift taxation.

Held: The disclaimer of a remainder interest in a trust is subject to federal gift taxation when the creation of the interest (but not the disclaimer) occurred before enactment of the gift tax. Pp. 8–18.

(a) Although the Internal Revenue Code's gift tax provisions embrace all gratuitous transfers of property having significant value, the Regulation affords an exception by providing that a disclaimer of property transferred from a decedent's estate does not result in a gift if it is unequivocal and effective under local law, and made ``within a reasonable time after knowledge of the existence of the transfer.'' The *Jewett* Court held that ``the transfer'' in the 1958 version of the Regulation refers to the creation of the interest being disclaimed, with the ``reasonable time'' therefore beginning to run upon knowledge of the creation of the trust. Pp. 8–9.

(b) If the Regulation applies to Mrs. Irvine's disclaimer, her act resulted in taxable gifts. The knowledge and capacity to act, which are presupposed by the requirement that a tax-free disclaimer be made within a reasonable time of the disclaimant's knowledge of the transfer of the interest to her, were present in this instance at least as early as Mrs. Irvine's 21st birthday in 1931. Although there is no bright line rule for timeliness in the absence of a statute or regulation providing one, Mrs. Irvine's delay for at least 47 years in making her disclaimer could not possibly be thought reasonable. Pp. 9–11.

(c) Respondents' arguments that the Regulation is inapposite by its own terms to the facts of this case need not be resolved here, for the result of the Regulation's inapplicability would not be, as respondents claim, a freedom from gift taxation on a theory of borrowed state law. State property transfer rules do not translate into federal taxation rules because the principles underlying the two look to different objects. In order to defeat the claims of a disclaimant's creditors in the disclaimed property, the state rules apply the legal fiction that an effective disclaimer of a testamentary gift cancels the transfer to the disclaimant *ab initio* and substitutes a single transfer from the original donor to the disclaimant's beneficiary. In contrast, Congress enacted the gift tax as a supplement to the federal estate tax and a means of curbing estate tax avoidance. Since the reasons for defeating a disclaimant's creditors would furnish no reasons for defeating the gift tax, the Court in *Jewett, supra,* at 317, was undoubtedly correct to hold that Congress had not meant to incorporate state-law fictions as touchstones of taxability when it enacted the Act. Absent such a legal fiction, the federal gift tax is not struck blind by a disclaimer. Pp. 12–16.

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(d) Taxation of the transfer following Mrs. Irvine's disclaimer would not violate §501(b) of the Act, which provided that it would ``not apply to a transfer made on or before the date of the enactment of this Act [June 6, 1932].'' Section 501 merely prohibited application of the gift tax statute to transfers antedating the enactment of the Act; it did not prohibit taxation where, as here, interests created before the Act were transferred after enactment. Pp. 16–18.

981 F. 2d 991, reversed.

SOUTER, J., delivered the opinion of the Court, in which REHNQUIST, C. J., and STEVENS, O'CONNOR, KENNEDY, THOMAS, and GINSBURG, JJ., joined, and in which SCALIA, J., joined except as to Part III–A. SCALIA, J., filed an opinion concurring in part and concurring in the judgment. BLACKMUN, J., took no part in the decision of the case.