2 T.C. 897 (1943)

A cash basis taxpayer's unsold livestock and farm products do not constitute "accrued income" at the time of death under Section 42 of the Revenue Act of 1938, and their fair market value is not included in the decedent's final income tax return.

Summary

The estate of Tom L. Burnett contested the Commissioner's determination that the fair market value of raised livestock and feed on hand at the time of Burnett's death should be included in his final income tax return under Section 42 of the Revenue Act of 1938. Burnett had always used the cash receipts and disbursements method of accounting. The Tax Court held that the unsold livestock and feed, although having a determinable fair market value, did not constitute "accrued income" under the statute, as there was no sale or exchange and no indebtedness to the decedent. Therefore, the Commissioner's adjustment was reversed.

Facts

Tom L. Burnett, a cattle rancher, used the cash receipts and disbursements method of accounting. He expensed the costs of raising livestock and feed. Upon his death on December 26, 1938, Burnett owned livestock with a fair market value of $171,408, of which $154,820 represented livestock he had raised. He also had raised feedstuffs on hand worth $5,980.50. Burnett's final income tax return did not include the value of this livestock and feed as gross income.

Procedural History

The Commissioner determined a deficiency in Burnett's income tax, arguing that the fair market value of the livestock and feed should be included in his final income tax return as "accrued income" under Section 42 of the Revenue Act of 1938. Burnett's estate petitioned the Tax Court for a redetermination of the deficiency.

Issue(s)

Whether the fair market value of raised livestock and feed owned by a cash basis taxpayer at the time of death constitutes "accrued income up to the date of his death" within the meaning of Section 42 of the Revenue Act of 1938, requiring its inclusion in the decedent's final income tax return.

Holding

No, because the mere ownership of unsold livestock and feed, without a sale or exchange creating a right to receive income, does not constitute "accrued income" under Section 42 of the Revenue Act of 1938.

Court's Reasoning

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The court distinguished *Helvering v. Enright's Estate*, 312 U.S. 636 (1941), and *Helvering v. McGlue's Estate*, 119 F.2d 167 (4th Cir. 1941), noting that those cases involved income that was earned but not yet received. Here, there was no sale or exchange of the livestock and feed, and no one was indebted to the decedent for their value. The court stated, "We do not think that the mere ownership of this property by decedent at the time of his death, even though it had been produced on his ranches during his lifetime, caused it to be gross income accrued to him up to the date of his death within the meaning of the language used in section 42 of the Revenue Act of 1938." The court acknowledged Congress's power to include such property as accrued income but found no clear indication that Congress intended to do so in Section 42.

Practical Implications

This case clarifies the scope of "accrued income" under Section 42 of the Revenue Act of 1938 for cash basis taxpayers. It establishes that the mere possession of unsold property, even if produced by the taxpayer, does not trigger income recognition upon death. This decision was significant before the 1942 amendments to Section 42, which shifted the taxation of income earned by decedents to the recipients of that income. The Burnett decision highlights the importance of a sale or exchange or some other income-generating event for income to be considered "accrued." This case is useful for understanding the historical context of income taxation of decedents and the evolution of the rules now found in Section 691 of the Internal Revenue Code.

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