***2 T.C. 1244 (1943)***

Under Texas community property law, income derived from a wife's separate property, including a trust established before her marriage, becomes community property upon marriage.

## Summary

This case addresses whether income from trusts established for two women before their marriages, and paid to them after their marriages while residing in Texas, should be treated as separate income or community income for federal income tax purposes. The Tax Court held that under Texas law, such income is community income, despite the trusts being established and administered under New York law. Therefore, each spouse is taxable on only one-half of the income.

## Facts

Gladys Porter and Camille Lightner, sisters, were beneficiaries of trusts established by their father. Some trusts were created before their marriages (in 1929 and 1934, respectively), and some after. The sisters lived in New York with their parents before their marriages. After marrying, they resided with their husbands in Texas. The trust income consisted entirely of dividends and interest from stocks and bonds held by the trustee.

## Procedural History

The Commissioner of Internal Revenue determined deficiencies in the sisters' income tax, arguing that the trust income was their separate income. The sisters filed separate income tax returns in San Antonio, Texas, and challenged the Commissioner's determination in the Tax Court.

## Issue(s)

1. Whether income received by Texas residents from trusts established before their marriage constitutes community property under Texas law, even when the trusts are governed by New York law.

## Holding

1. Yes, because under Texas law, while property acquired by a wife before marriage remains her separate property, the income derived from it after marriage is community property.

## Court's Reasoning

The court emphasized the distinction between the character of ownership of property and the character of income derived from that property under Texas community property law. While property acquired by a woman as a gift before or after marriage remains her separate property, the income derived from it after marriage becomes community property. The court stated, "Unlike principal property received as a gift by a married woman after marriage, income is community property, even though the property from which it is derived is the separate property of the wife." The court further reasoned that the location of the trust (New York) and the law governing its administration do not override the Texas law regarding the characterization of income received by Texas residents. Federal income tax follows the ownership of income as determined by state law.

### Practical Implications

This case clarifies that for Texas residents, the source and location of a trust are less important than the fundamental principle of Texas community property law: income from separate property becomes community property upon marriage. This decision affects how tax advisors counsel clients regarding trusts and community property. The ruling reinforces the importance of understanding state property law when determining federal income tax liability. Later cases would likely distinguish this ruling if the trust instrument explicitly addressed the character of income or if the beneficiaries resided in a non-community property state.

 