5 T.C. 493 (1945)

Absent specific direction in a trust document, capital losses are generally chargeable against the corpus of the trust, not the distributable income to beneficiaries.

Summary

In *Harris v. Commissioner*, the Tax Court addressed whether a capital loss sustained by a testamentary trust from the sale of stock should be deducted from the trust's income or charged against the corpus. The court held that, in the absence of a clear direction in the will to the contrary, capital losses are chargeable against the corpus, and therefore, the beneficiaries were required to include the full amount of the distributed income in their individual tax returns without deducting the capital loss. The court rejected the beneficiaries' argument that a clause in the will directing the executors to keep the residue of the estate "intact" indicated an intention to make up for capital losses out of income.

Facts

Isaac Liebman created a testamentary trust in his will, naming his wife and two daughters as executrices and beneficiaries. The will directed the executrices to pay one-half of the trust income to his wife and the remaining half to his daughters. In 1941, the trust sold shares of stock, resulting in a capital loss. The executrices, acting on advice of counsel, deducted one-half of this loss from the trust's income on the fiduciary tax return, reporting a reduced amount as distributable to the beneficiaries. However, the entire income, without deducting the loss, was actually distributed to the beneficiaries.

Procedural History

The Commissioner of Internal Revenue assessed deficiencies against the beneficiaries (Liebman's daughters) based on their inclusion of only a portion of the trust income (after deduction of the capital loss) on their individual income tax returns. The beneficiaries petitioned the Tax Court for review, arguing that the capital loss should have been charged against the trust income, reducing the amount distributable to them.

Issue(s)

Whether, in determining the distributable income of a testamentary trust, a capital loss sustained by the trust from the sale of stock is chargeable against the income of the trust or against the corpus, in the absence of a specific provision in the will addressing the treatment of capital losses.

Holding

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No, because absent a contrary provision in the trust agreement, capital losses are charges against the corpus of the trust, not the income distributable to beneficiaries. The will's direction to keep the estate "intact" did not explicitly require that capital losses be made up out of income.

Court's Reasoning

The court applied the general rule that capital losses are chargeable against the corpus of a trust unless the trust agreement provides otherwise. The court distinguished the case from *Anna M. Chambers*, 17 B.T.A. 820, where a specific direction to keep the estate

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