6 T.C. 62 (1946)

The basis for determining gain or loss on the sale of property acquired by bequest, devise, or inheritance is the fair market value of the property at the date of the decedent's death, regardless of whether the interest was contingent or vested at that time.

Summary

Malcolm Clifton Davenport inherited a contingent interest in property through his father's will in 1918 but did not receive possession until 1928 when a testamentary trust terminated. He sold the property in 1941 and sought to use the 1928 distribution date as the basis for calculating capital gains. The Tax Court held that under Section 113(a)(5) of the Internal Revenue Code, the basis was the fair market value at the time of the decedent's death in 1918, even though Davenport's interest was initially contingent. The court also determined the fair market value of the property in 1918 and upheld a delinquency penalty for late filing of Davenport's tax return.

Facts

D.D. Davenport (the decedent) died in 1918, leaving property, including the "Davenport Apartments," in trust. The trust provided income to the decedent's wife and to Clara Davenport (widow of the decedent's deceased son) and her children, including Malcolm Clifton Davenport (the petitioner). The trust was to terminate when the youngest grandchild reached 25, at which point the estate would be distributed. Malcolm received his share in 1928 when he turned 25. The Davenport Apartments were valued at $90,000 for estate tax purposes in 1918 ($19,300 for land, $70,700 for the building). Malcolm sold the apartments in 1941 for $71,000.

Procedural History

The Commissioner of Internal Revenue determined a deficiency in Davenport's 1941 income tax and imposed a delinquency penalty for late filing. Davenport contested the deficiency, arguing for a basis equal to the property's value when distributed to him in 1928. The Tax Court addressed the basis issue and the valuation of the property in 1918.

Issue(s)

1. Whether the basis for determining gain or loss on the sale of inherited property is its fair market value at the date of the decedent's death or at the date of distribution to the beneficiary when the beneficiary's interest was initially contingent?

2. What was the fair market value of the Davenport Apartments at the date of the decedent's death in 1918?

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3. Whether a delinquency penalty should be imposed for the late filing of the petitioner's tax return, despite reliance on an accountant?

Holding

1. Yes, because Section 113(a)(5) of the Internal Revenue Code dictates that the basis is the fair market value at the time of the decedent's death, regardless of whether the interest was contingent or vested.

2. The fair market value was $109,300, with $19,300 for the land and $90,000 for the building.

3. Yes, because the responsibility for filing tax returns cannot be avoided by delegating it to an agent, and there was no reasonable cause for the late filing.

Court's Reasoning

The court relied heavily on the Supreme Court's decision in *Helvering v. Reynolds*, 313 U.S. 428 (1941), which held that the basis for inherited property is its value at the decedent's death, even if the taxpayer's interest was initially contingent. The Tax Court reasoned that the critical factor is that the property was acquired by

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