8 T.C. 784 (1947)

Income earned by an estate during the period of administration is taxable to the estate, not the beneficiaries, unless it is properly paid or credited to the beneficiaries or the beneficiaries have a present right to compel distribution under local law.

Summary

The Tax Court addressed whether income generated by the estate of B. Brasley Cohen during the taxable year was taxable to the estate or to the devisees and legatees. The court held that the income was taxable to the estate because the income was neither properly paid nor credited to the beneficiaries during the tax year, nor did the beneficiaries have a present right under California law to compel distribution of the income. Furthermore, income from real estate subject to administration was taxable to the estate, even though title to the real estate vested in the devisees under local law.

Facts

B. Brasley Cohen died testate on May 16, 1942, leaving a will that divided his estate among Paula C. Lubic and his grandchildren. The will was admitted to probate, and William F. Cole and Paula Lubic were appointed administrators. The estate consisted of real estate, cash, stocks, and bonds. The first publication of notice to creditors occurred on June 10, 1942, and the deadline for filing claims was December 10, 1942. All claims were paid by that date, including the California inheritance tax. Federal estate taxes were paid in March 1943. The estate generated a net income of $27,213.65 during the taxable year May 16 to December 31, 1942, including income from real estate.

Procedural History

The administrators filed a fiduciary income tax return (Form 1041) reporting the income and deducting the same amount as distributable to beneficiaries, resulting in no taxable net income for the estate. The beneficiaries reported the income on their individual tax returns. The Commissioner of Internal Revenue determined a deficiency, arguing the income was not properly distributable to the beneficiaries under Internal Revenue Code Section 162. The Tax Court reviewed the Commissioner’s determination.

Issue(s)

1. Whether the income from the estate was taxable to the estate or to the legatees and devisees under Section 162(b) of the Internal Revenue Code.
2. Whether the income from the estate was taxable to the estate or to the legatees and devisees under Section 162(c) of the Internal Revenue Code.
3. Whether the income derived from real estate was taxable to the devisees or to

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the estate.

Holding

1. No, because the legatees did not have a present right under California law to compel a distribution of the income during the taxable year.
2. No, because the income was not

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