***8 T.C. 1045 (1947)***

When an executor uses estate property to satisfy a beneficiary's right to a cash payment, the beneficiary's basis in the acquired property is the value of the claim surrendered in exchange.

**Summary**

A testatrix directed her executor to sell real estate and distribute the proceeds to four legatees. Instead of selling, the executor formed a corporation, transferred the real estate to it, and issued all shares to the legatees. Later, the corporation liquidated, distributing the real estate back to the legatees. The Tax Court addressed the legatees' basis in the real estate for calculating gain or loss upon liquidation. The court held that because the will directed a sale and distribution of proceeds, the legatees' basis was the value of their right to those proceeds when they received the shares, measured by the real estate's value at that time.

**Facts**

Laura E. Anderson's will directed her executors to sell a specific property and distribute the proceeds among named beneficiaries (petitioners). Instead of selling the property, the executors transferred it to Brinclar Realty Corporation in 1928 and issued stock to the beneficiaries, who released the executors from their obligation to pay the cash bequest. The property's value was $66,207.24 at the time of Anderson's death in 1921, and $135,092.70 when transferred to the corporation in 1928. In 1941, Brinclar Realty Corporation was dissolved, and the property was distributed to the petitioners.

**Procedural History**

The Commissioner of Internal Revenue determined deficiencies in the petitioners' income taxes for 1941, asserting that they realized a capital gain from the liquidation of the corporation, using the property's value at the testatrix's death as the basis. The petitioners contested this determination, arguing that their basis should be the property's value when they received the shares in 1928. The case was brought before the United States Tax Court.

**Issue(s)**

Whether the basis for computing gain or loss on the liquidation of the corporation is the value of the real estate at the time of the testatrix's death, or the value of the legatees' right to the money proceeds when they received the corporate shares in lieu thereof.

**Holding**

No, because the legatees were entitled to the proceeds from the sale of the real estate, not the real estate itself. Their basis is the value of their right to those proceeds when they received the shares in lieu thereof, measured by the value of the real estate at that time.

**Court's Reasoning**

The court relied on Anderson v. Wilson, <span normalizedcite="289 U.S. 20“>289 U.S. 20, stating that under New York law, the legatees only had a right to the money proceeds from the sale, not the property itself. The executors, by exchanging the real estate for corporate shares and distributing those shares, made a taxable disposition of the shares. The court cited Kenan v. Commissioner (C. C. A., 2d Cir.), 114 Fed. (2d) 217 and Suisman v. Eaton, 15 Fed. Supp. 113, affirming that using estate property to satisfy a cash bequest constitutes a sale or disposition. The court stated, "Conversely, the beneficiary's basis for property so acquired is 'the value of the claim surrendered in exchange.'" Therefore, the legatees' basis was the fair market value of the property when they received the shares ($135,092.70), less the $7,000 bequested to the hospital and church.

**Practical Implications**

This case clarifies the basis of inherited property when a will directs the sale of property and distribution of proceeds, but the executor distributes the property itself (or shares representing the property) instead. It highlights the importance of adhering to the specific terms of a will to avoid unintended tax consequences. Executors must recognize that satisfying a cash bequest with property triggers a taxable event for the estate, and the beneficiary's basis is the value of the claim surrendered, not necessarily the property's value at the time of the testator's death. This decision influences how estate planning attorneys advise clients on structuring bequests and how tax advisors handle the distribution of estate assets.