***9 T.C. 896 (1947)***

During the period of estate administration, income is taxable to the estate except for amounts properly paid or credited to a legatee, heir, or beneficiary.

**Summary**

The Tax Court addressed whether income from a decedent's estate was taxable to the beneficiary or the estate itself during the administration period. The Commissioner argued that the income was distributable to the beneficiary, Mrs. Hirsch, under the testamentary trust established in her husband's will. The court held that because the estate was still actively in administration, with significant debts and tax liabilities being resolved, the income was taxable to the estate except for the amounts actually distributed to Mrs. Hirsch. The key issue was whether the estate administration was ongoing, delaying the trust's activation.

**Facts**

Harold Hirsch died in September 1939, leaving a will that bequeathed his personal effects to his wife, Marie Hirsch, and the remainder of his estate to trustees (including Mrs. Hirsch) for her benefit during her lifetime, with the remainder to their children. The estate was substantial, but also carried considerable debt and claims. Executors were appointed, including Mrs. Hirsch. The executors engaged in extensive efforts to value and liquidate assets, settle disputes, and address significant tax liabilities, including a large federal estate tax deficiency. Mrs. Hirsch applied for and was allowed a year's support from the estate in both 1940 and 1941.

**Procedural History**

The Commissioner determined deficiencies in Mrs. Hirsch's income tax for 1940 and 1941, arguing that income from the trust should have been included in her personal income. Mrs. Hirsch contested these additions, arguing the estate was still in administration. The Tax Court reviewed the case, considering stipulated facts, oral testimony, and documentary evidence.

**Issue(s)**

Whether the income from Harold Hirsch's estate was taxable to Marie Hirsch as income from a trust, or to the estate itself, during the tax years 1940 and 1941 when the estate was in administration.

**Holding**

No, because during 1940 and 1941, the estate was still in active administration, and the testamentary trust had not yet begun to function; therefore, only the income actually distributed to Mrs. Hirsch during those years was taxable to her; the remaining income was taxable to the estate under Section 162(c) of the Internal

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Revenue Code.

**Court's Reasoning**

The court relied on Section 162(c) of the Internal Revenue Code, which governs income received by estates of deceased persons during administration. The court emphasized Treasury Regulation Section 19.162-1, which defines the administration period as the time required for executors to perform ordinary duties, like collecting assets and paying debts. The court found the estate was actively managing complex affairs, including valuing assets like Coca-Cola stock, settling disputes, and resolving substantial tax liabilities. It noted that the executors did not consider it prudent to transfer assets to the trust until the major estate tax liability was settled in August 1942. The court distinguished Section 162(b), which applies to income that *is* to be distributed currently, finding it inapplicable here since the estate's income was primarily used to settle debts and taxes. The court also cited *Estate of Peter Anthony Bruner, 3 T.C. 1051* and *First National Bank of Memphis, Executor, 7 T.C. 1428*, noting the consistency in applying Section 162(c) during active estate administration. The Court stated, "Therefore, in the light of the foregoing facts, it seems clear that the income of the estate of decedent was the income of an estate in 'process of administration' and is taxable as provided in section 162 (c), as petitioner contends, and not as provided by section 162 (b), as contended by respondent."

**Practical Implications**

This case clarifies that the determination of when an estate is no longer in administration is a factual one, focusing on whether the executors are still performing their ordinary duties. Attorneys should advise executors to meticulously document the activities undertaken during estate administration, especially concerning debt resolution, asset valuation, and tax matters. The case highlights that the mere existence of a testamentary trust does not automatically render estate income taxable to the beneficiary. It provides a framework for analyzing similar cases, emphasizing the importance of demonstrating that the estate is actively resolving liabilities and managing assets, before the testamentary trust begins to function. This case reinforces that careful planning and documentation are crucial for minimizing income tax liabilities during estate administration.

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