13 T.C. 77 (1949)

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When a husband in a community property state is in military service, only his share of the community income from personal services is excluded from taxable income under Section 6(d)(1) of the Current Tax Payment Act; the wife's share remains taxable unless she is also a qualifying servicemember.

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Summary

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Marion J. Epley, Jr., a lawyer residing in Louisiana, sought a redetermination of a deficiency in his 1943 income tax. Epley was in active naval service during 1942-1943. He and his wife filed separate returns for 1942, dividing their community income. For 1943, they filed a joint return. Epley argued that under Section 6(d)(1) of the Current Tax Payment Act, his wife's share of the 1942 community income (derived from his law practice) should also be excluded from taxable income. The Tax Court held that only Epley's share of the community income was excludable, affirming the Commissioner's determination.

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Facts

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Marion J. Epley, Jr., a lawyer in New Orleans, Louisiana, entered active duty with the Navy on October 18, 1942, and served until June 1945. Prior to his service, his law practice generated the entire income of the marital community. In 1942, Epley and his wife, Doris, filed separate income tax returns, dividing the community income. Doris reported $7,000 as net profit from Epley's law practice. For 1943, Epley filed a single return, including all community income and deductions, which the court treated as a joint return. Epley sought to exclude not only his share of the 1942 community income but also his wife's share from the calculation of his 1943 tax liability, citing Section 6(d)(1) of the Current Tax Payment Act of 1943.

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Procedural History

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The Commissioner of Internal Revenue determined a deficiency in Epley's 1943 income tax. The Commissioner allowed an exclusion of $1,500 for Epley's active service compensation for 1942 but denied the exclusion for Doris's share of the community income. Epley petitioned the Tax Court for a redetermination of the deficiency.

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Issue(s)

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Whether, under Section 6(d)(1) of the Current Tax Payment Act of 1943, a serviceman residing in a community property state can exclude his wife's share of the community income, derived from his personal services, from taxable income when calculating his tax liability for 1943.

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Holding

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No, because Section 6(d)(1) only allows the exclusion of the

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