14 T.C. 1128 (1950)

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Alimony arrearages received by the estate of a deceased divorced wife are includible in the gross income of the estate under Section 126 of the Internal Revenue Code, retaining their character as periodic payments.

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Summary

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The Estate of Sarah L. Narischkine received $69,375 representing alimony arrearages owed to the decedent by her former husband. The Commissioner of Internal Revenue determined that this sum was includible in the estate's gross income. The Tax Court held that the alimony arrearages, which would have been taxable as periodic payments to the decedent had she received them, constituted income in respect of a decedent under Section 126 of the Internal Revenue Code and were therefore taxable to the estate. This decision clarifies that the right to receive income, not just the actual receipt by the decedent, determines taxability under this section.

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Facts

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Sarah L. Narischkine and Dudley Olcott entered into a separation agreement in 1932, incorporated into their divorce decree, requiring Olcott to pay Narischkine $15,000 annually in monthly installments. Olcott paid the full amount until January 1934, after which he only paid half. Narischkine never waived her right to the unpaid balance. After Narischkine's death in 1944, her estate demanded the arrears. Olcott paid the estate $69,375 in 1946. The estate reported this receipt but claimed it was not includible in gross income.

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Procedural History

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The Commissioner of Internal Revenue determined a deficiency in the estate's income tax liability for 1946, resulting from the inclusion of the alimony arrearages in the estate's gross income. The estate petitioned the Tax Court for a redetermination of the deficiency.

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Issue(s)

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Whether alimony arrearages received by the estate of a deceased divorced wife constitute "an item of gross income in respect of a decedent" under Section 126 of the Internal Revenue Code and are thus includible in the estate's gross income.

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Holding

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Yes, because the alimony arrearages retained their character as periodic payments, and the estate acquired the right to receive these payments from the decedent, making them taxable as income in respect of a decedent under Section 126 of the Internal Revenue Code.

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Court's Reasoning

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The Tax Court focused on whether the arrearages constituted "an item of gross income in respect of a decedent" under Section 126. The court reasoned that had Narischkine received the arrearages before her death, they would have been taxable as periodic payments under Sec. 22 (k), I. R. C.. The court emphasized that arrearages retain their original character as periodic payments, even when received in a lump sum. The court stated, "Since the arrears here would have constituted periodic payments had they been paid when due, the receipt of such arrears, even though in a lump or aggregate sum, must be regarded as the receipt of a periodic payment." The court rejected the estate's argument that alimony is taxable only when received directly by the wife. Instead, the court found that the "right to receive such payments" is what matters. Citing legislative history, the court noted the intent to treat such payments as income to the spouse "actually receiving or actually entitled to receive them." The court also cited Estate of Edgar V. O'Daniel, noting that even a bonus not ascertained until after death was taxable to the estate, further supporting the conclusion that the right to receive income is taxable under section 126.

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Practical Implications

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This case clarifies that the right to receive income, specifically alimony, is an asset that passes to the estate and is taxable as "income in respect of a decedent" under <span id="I4PBPMM90K1MNJ1350000400" name="citation" normalizedcite="26 U.S.C. 126" type="statute