20 T.C. 332 (1953)

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A taxpayer realizes a gain in the taxable year when the sale of property occurs, even if receipt of a portion of the sale proceeds is deferred to a subsequent year due to an attachment by a creditor unrelated to the sale itself.

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Summary

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Dwight and Hanna Ward sold their partnership interest in 1946, receiving most of the proceeds that year. However, $17,000 was delayed due to a creditor's attachment. The Wards, using the cash basis of accounting, argued this amount wasn't taxable until received in 1947. The Tax Court held that the gain was 'realized' in 1946 when the sale occurred. The court also addressed the deductibility of legal fees, broker fees, expenses for a former employee, and research expenses related to a new business venture. The court allocated certain expenses and disallowed others, impacting the Wards' taxable income.

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Facts

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Dwight Ward was a partner in Ward Refrigerator & Mfg. Co. A dispute led to a court-ordered dissolution and receivership in 1945. The partnership assets were sold in 1946. Ward's share of the proceeds was $211,111.26. Most of this was received in 1946, but $17,000 was held back because a creditor, Webb, attached the funds, claiming Ward owed him money. Webb's claim was unrelated to the partnership sale. Ward also incurred legal fees, broker fees, and expenses for a former secretary. He also spent money researching a new concrete block business.

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Procedural History

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The Commissioner of Internal Revenue determined deficiencies in the Wards' income tax for 1946. The Wards contested several adjustments, leading to a Tax Court case. Five issues remained unresolved after stipulations.

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Issue(s)

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1. Whether $17,000 representing profit from the sale of the partnership interest was constructively received in the taxable year 1946 despite the attachment.

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2. Whether $10,000 in legal fees were fully deductible as ordinary and necessary business expenses, or if they should offset the sale price of the partnership assets.

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3. Whether $5,000 in counselor fees should be treated as an expense of the sale of partnership assets or as ordinary and necessary business expenses.

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4. Whether payments made to or for the benefit of a former employee of the partnership were deductible as ordinary and necessary business expenses.

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5. Whether expenditures for research, engineering plans, and travel related to a potential new business venture were deductible as ordinary and necessary business expenses.

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Holding

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1. No, because the gain was

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