*24 T.C. 86*

Under the 1945 Hawaiian community property law, income derived from a spouse's separate property during marriage is considered community income, equally owned by both spouses.

**Summary**

Dorothy McKay and her husband, Pink Murphey, residents of Hawaii, filed separate tax returns for 1947, treating income from Murphey's separate property as community income. The IRS determined a deficiency, arguing this income was indeed community income under Hawaiian law. The Tax Court addressed whether income from separate property was community income under the 1945 Hawaii statute and whether McKay was estopped from denying community property status after filing her return as such. The court held that the income was community income based on the statute's interpretation, thus upholding the deficiency and not reaching the estoppel argument.

**Facts**

Dorothy McKay and Pink Murphey were married, divorced, and remarried in 1946, residing in Hawaii during their remarriage in 1947. Prior to their divorce, they had a property settlement agreement where Murphey retained his separate property, including a business called Spud's. In 1947, income was generated from Murphey's separate property. For the 1947 tax year, McKay and Murphey filed separate income tax returns, both prepared by Spud's bookkeeper, which treated the income from Murphey's separate property as community income, each reporting half. The Commissioner of Internal Revenue determined a deficiency against McKay, arguing that half of the income from Murphey's separate property was taxable to her as community income under Hawaiian law.

**Procedural History**

The Commissioner of Internal Revenue determined a deficiency in Dorothy McKay's 1947 income tax. McKay petitioned the Tax Court to contest this deficiency.

**Issue(s)**

1. Whether, under the community property law of the Territory of Hawaii effective in 1947, income from the husband's separate property was community income.
2. Whether McKay was estopped from denying that the income was community income after filing a 1947 return on a community property basis.

**Holding**

1. Yes, because under Section 12391.04 of the Revised Statutes of Hawaii, the

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income from the separate property of the husband was community income.
2. The court did not reach this issue because it ruled in favor of the Commissioner on the first issue.

**Court's Reasoning**

The Tax Court interpreted Section 12391.04 of the Revised Statutes of Hawaii, which stated, "rents, issues, income and other profits of the separate property of the husband and rents, issues, income and other profits of the separate property of the wife, acquired by the husband or by the wife after marriage…shall be community property." The court rejected McKay's argument that this section applied only to separate property acquired *after* marriage. The court reasoned that Sections 12391.01 and 12391.02 defined separate property but did not address income from it, whereas Section 12391.04 *did* address income from separate property without limiting it to property acquired post-marriage. The court stated, "From an examination of the language of section 12391.04, in connection with the statute as a whole, it is our view and we hold that the provision was not intended to be limited in its application in the manner contended for by the petitioner, but rather, it was intended that the income received after marriage from all of the separate property of the spouses was to be community income, regardless of whether the separate property itself was acquired before or after marriage." The court also noted Section 12391.10, which refers to income from separate property as community property, further supporting their interpretation. Because the court found the income to be community property based on statutory interpretation, it did not need to address the estoppel argument.

**Practical Implications**

This case clarifies the interpretation of the short-lived 1945 Hawaiian community property law, specifically holding that income from separate property became community property upon marriage under that statute. For legal professionals dealing with tax years under this specific Hawaiian statute, this case is precedent for understanding the community property implications of income from separate assets. While the Hawaiian community property law was repealed in 1949, this case remains relevant for historical tax law analysis and demonstrates the importance of statutory interpretation in determining tax liabilities in community property jurisdictions. It highlights that the plain language of a statute, considered within the context of the entire legislative scheme, will guide judicial interpretation, even in the absence of legislative history or prior case law.

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