24 T.C. 1133 (1955)

Estate income is not “to be distributed currently” to beneficiaries, and therefore is not taxable to them, when the executors have the discretion to require refunding bonds before distributing income, thus preventing beneficiaries from having a present, enforceable right to the income.

Summary

The case concerns the income tax liability of the beneficiaries of an estate. The will stipulated that executors could, at their discretion, require refunding bonds before distributing income to the residuary legatees. The court held that this provision meant the income was not “to be distributed currently” under Section 162(b) of the 1939 Internal Revenue Code. As such, the income was not includible in the legatees’ taxable income until actually distributed or irrevocably credited to them. The court focused on the absence of a present, enforceable right to the income due to the executors’ discretionary power concerning refunding bonds.

Facts

Horace Greeley Hill died, and his will appointed his son and the Nashville Trust Company as co-executors. The will stated that income from the estate would be distributed to the legatees (wife, son, and two daughters) every six months or more frequently, at the executors’ discretion. Significantly, the will allowed the executors, in their sole discretion, to waive or require refunding bonds before distributing income. The estate primarily held shares of stock in a closely held company. The executors made distributions of income in 1943 and 1944, but not in subsequent years. The Commissioner of Internal Revenue determined deficiencies in the income tax of the beneficiaries, asserting that the estate’s income was

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