33 T.C. 1032 (1960)

Renewal commissions from insurance policies distributed to stockholders upon corporate liquidation may have an ascertainable fair market value at the time of distribution, impacting the tax treatment of subsequent income, and income received after the death of a stockholder from such commissions may be considered income in respect of a decedent.

Summary

In 1950, A&A Corporation liquidated, distributing its assets, including rights to insurance renewal commissions, to its sole stockholders, Abraham and Anna Goldstein. The Goldsteins initially reported the liquidation as a closed transaction, assigning no fair market value to the renewal rights. After Abraham's death, the Commissioner of Internal Revenue assessed deficiencies, arguing that the renewal rights had an ascertainable fair market value at the time of distribution and that income received after Abraham's death from his share of the rights constituted income in respect of a decedent under §691 of the Internal Revenue Code. The Tax Court agreed with the Commissioner, finding that the rights possessed a fair market value and the subsequent income was taxable as such.

Facts

A&A Corporation, owned by Abraham and Anna Goldstein, was a general agent for Bankers National Life Insurance Company. The corporation held rights to renewal commissions on insurance policies it placed. In 1950, the corporation liquidated, distributing its assets, including these renewal commission rights, to the Goldsteins. The Goldsteins did not initially include a value for the renewal rights in their reported gain from the liquidation. Abraham died in 1953, and Anna became the sole owner of his share of the rights. The Goldsteins received substantial income from the renewal commissions in subsequent years. The IRS asserted deficiencies in the Goldsteins' income tax for the years 1953 and 1954, arguing the renewal commissions had an ascertainable fair market value at the time of liquidation.

Procedural History

The Commissioner of Internal Revenue determined deficiencies in the income tax of Abraham Goldstein and Anna Goldstein for 1953, and Anna Goldstein individually for 1954. The case was brought before the United States Tax Court.

Issue(s)

1. Whether the rights to insurance renewal commissions distributed to stockholders upon the complete liquidation of a corporation had an ascertainable fair market value at the time of distribution.

2. If so, what was that fair market value?

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3. Whether the income to petitioner Anna Goldstein from that portion of said rights which had been originally distributed to the decedent, was income in respect of a decedent within the meaning of Section 691 of the Internal Revenue Code of 1954.

Holding

1. Yes, because the court found the financial element of the renewal commission rights did have an ascertainable fair market value at the time of distribution.

2. The court determined the fair market value to be $70,000.

3. Yes, because the income to Anna Goldstein from the portion of the rights originally distributed to the decedent was income in respect of a decedent.

Court's Reasoning

The Tax Court relied on established precedent, particularly *Burnet v. Logan*, to analyze whether the renewal commission rights possessed an ascertainable fair market value. The court distinguished the present case from *Burnet*, noting that the insurance renewal commissions were based on a large number of policies, allowing for reasonable certainty in predicting the future income stream based on actuarial tables and experience. The court emphasized that the existence of a market for such rights, with potential buyers, further supported the finding of a fair market value. The Court referenced the established valuation procedures of the insurance industry. The court then determined the fair market value, acknowledging the lack of detailed evidence and using the *Cohan* rule to estimate the value. Finally, based on *Frances E. Latendresse*, the court held that the income received by Anna Goldstein from the renewal commissions attributable to her deceased husband's share was income in respect of a decedent under §691, I.R.C. 1954.

Practical Implications

This case provides critical guidance on valuing assets distributed in corporate liquidations, especially intangible assets like commission rights. It underscores the importance of determining whether future income is too speculative or is based on predictable data, such as actuarial tables. It advises practitioners to consider the presence of a market for similar assets. The case also clarifies the application of §691 of the Internal Revenue Code, affecting how income from such rights is treated for tax purposes after a shareholder's death. Subsequent cases are likely to apply this principle to other types of income streams. The case highlights the importance of properly valuing assets at the time of liquidation to ensure proper tax treatment. Proper documentation and expert testimony will be important in establishing fair market value.

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