

January 1941

Current Tax Problems

Albert J. Gould

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Recommended Citation

Albert J. Gould, Current Tax Problems, 18 Dicta 51 (1941).

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Current Tax Problems

Reviewed by ALBERT J. GOULD

Estate Expenses Not Deductible

Continuing the discussion in the December issue of DICTA regarding the above subject, the following is of interest:

“The record in this proceeding does not, in our opinion, show the carrying on of a trade or business by the petitioner during the taxable year. During such year it sold certain shares of stock belonging to the estate at a loss. Its gross income consisted entirely from the receipt of dividends upon shares of stock of domestic corporations. It paid a firm of accountants fees and traveling expenses in connection with the adjustment of the income taxes of the estate for prior years. If John A. McCandless had been living during the taxable year before us and had received the dividends upon his shares of stock, and made the payments here in question, we do not think it could be held that he was carrying on a trade or business within the meaning of the statute and he would not have been entitled to deduct such payments. See *Deputy v. Du Pont*, 308 U. S. 488.” Estate of McCandless, 42 B. T. A. No. 194, 11-27-40.

Settlement in Will Contest

Amount paid heir in compromise of will contest is not income to the heir and is not deductible from decedent's gross estate. Estate of John Sage, 42 B. T. A. No. 193, 11-26-40.

Attorney's Fees

Attorney's fees contingent upon outcome and to be paid out of recovery in litigation are deductible. Highland Farms Corp., 42 B. T. A. No. 195, 11-27-40.

Punitive Damages

Punitive damages awarded as a penalty do not constitute taxable income. Highland Farms Corp., 42 B. T. A. No. 195, 11-27-40.