

4-1920

## Income-Tax Department

American Institute of Accountants

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## Income-Tax Department

As was confidently expected by every accountant, an extension of time for filing final returns of corporations was granted by the commissioner of internal revenue before the expiration of the statutory limit on March 15th.

The unfortunate feature of the case was, however, that no one could be absolutely sure that an extension would be granted, and accordingly accountants worked under a degree of pressure which was almost unbearable. There seems to be no valid reason why inevitable extensions cannot be announced in time to afford some relief to accountants and others who are doing their utmost to prepare returns, on the basis of which the government is to derive its principal income.

The extension was in the form of an authorization to collectors of internal revenue to accept tentative returns from corporations on or before March 15th, to be followed by final returns not later than May 15th.

The permission was granted under date of March 4th in the form of It. Mim. 2420.

Extension until May 15, 1920, of the final date for filing corporation returns, form 1120, for the calendar year 1919

To collectors of internal revenue:

In view of the fact that considerable difficulty is being experienced by corporations and their representatives in the preparation of income-tax returns for the year 1919, collectors of internal revenue are hereby authorized to accept tentative corporation returns for the calendar year 1919 on or before March 15, 1920. Each return must be accompanied by at least one-fourth of the estimated amount of tax due, together with a statement setting forth the reason why the return cannot be completed within the prescribed time, and a formal request for the extension. Any deficiency in the first instalment will bear interest at the rate of six per cent per annum.

An extension of time is hereby granted to corporations in such cases to file completed returns on or before May 15, 1920. The tentative return submitted in accordance with the foregoing should be on form 1120, on which should be written plainly across the face "tentative return." Only the estimated amount of tax due need be stated.

Tentative returns filed under this authority will be handled in collectors' offices in the manner prescribed for the handling of similar returns last year.

A further extension of time within which to file returns will not be granted except in extraordinary cases and upon proper application to the commissioner of internal revenue, setting forth the reasons why the return cannot be completed.

It. Mim. 2383 is modified accordingly.

Since the March issue of THE JOURNAL OF ACCOUNTANCY was published there have been only three treasury rulings relative to income tax, one dealing with estates and trusts which cannot be treated as units, one with returns from non-resident alien beneficiaries, and one with compensation received in something other than money.

*The Journal of Accountancy*

TREASURY RULINGS

(T. D. 2987, March 1, 1920)

*Income Tax*

Adding article 347 to regulations No. 45, dealing with estates and trusts which cannot be treated as a unit

Regulations No. 45 are amended by adding thereto article 347 to read as follows:

ART. 347. *Estates and trusts which cannot be treated as a unit.*—In the case of certain estates and trusts it is recognized that the estate or trust cannot be treated as a unit for income-tax purposes, and may represent an aggregate of distinct interests to all of which the fiduciaries are responsible. In such cases the procedure stated in this article should govern. The following are recognized as cases which cannot be treated as a unit, and must, therefore, be governed by this article: (a) When there is income distributable periodically and also income which is to be accumulated in trust, held for future distribution, or added to the corpus; (b) when there is income distributable periodically and also income (according to the federal income-tax statutes and regulations) which is not distributable periodically under State law, e. g., gains from sale of capital assets, stock dividends; (c) when there is income distributable periodically and deductions (according to federal income-tax statutes and regulations) which are not deductible under state law from the distributable income, e. g., losses from the sale of capital assets, depletion, depreciation.

In ascertaining whether an estate or trust comes within any one of the cases just enumerated, the provisions of the federal statutes and regulations—rather than the provisions of the will or trust and the provisions of state laws—shall determine what items constitute taxable gross income or allowable deductions; the provisions of the will or trust and of state laws shall determine the allocation of items of gross income or deduction; that is, to which of the different interests making up the whole such items shall be charged or allowed. In cases which are to be treated under this article, the items of gross income and deduction as determined by the federal income-tax statutes and regulations must be scrutinized and classified in accordance with the provisions of the will or trust or rules of local law into two classes, one subject to the procedure specified in subdivision (c) of section 219, and the other to the procedure specified in subdivision (d) of section 219. The result will be that the beneficiary to whom income is to be distributed periodically must include in computing his net income the amount actually distributable to him (except exempt income), even though the aggregate of the distributive shares should be larger than the net income of the estate or trust computed as a unit. Any gain, profit or income which is not periodically distributable must be included in computing the net income of the estate or trust so that the fiduciary will pay the tax upon any excess of the net income of the estate or trust computed as a unit over the aggregate distributive shares.

For example, a trust is created, the income of which is distributable periodically for the life of the beneficiary, the remainder over to others. The trust has the following items of income: rent, \$3,000; interest, \$2,000; gain on sale of capital assets, \$1,500; cash dividend, \$1,000. And deductions: general expenses (all deductible from distributable income), \$700; depreciation, \$300; loss on sale of capital assets, \$3,000. Under the terms of the trust \$5,300 will be distributed to the beneficiary, viz., rent, \$3,000; plus interest, \$2,000; plus dividend, \$1,000; less general expenses, \$700. The gain and loss on the sale of capital assets will be considered capital items affecting the corpus only, and the items of depreciation will not affect the amount to be distributed, there being no rule of State law or provision of the trust re-

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quiring this deduction from distributable income. In such a case the fiduciary must report on form 1041, showing a net income for the trust of \$3,500, and must show as the distributive share of the beneficiary the \$5,300 to which he is entitled. The beneficiary must account for the amount actually distributable to him as income, viz., \$5,300, as provided in section 219 (d), and will be entitled to a credit of \$1,000 on account of the dividends in computing the normal tax, but not to any deduction on account of depreciation or capital losses.

If there had been no loss on the sale of capital assets so that the net income of the estate or trust was \$6,500, form 1041 should show the distributive share of the beneficiary as \$5,300 and the distributive share of the fiduciary as \$1,200; and the fiduciary should file a separate return on form 1040 A, reporting \$1,200 for taxation.

(T. D. 2988, March 3, 1920)

### *Income tax—Assessment and administration*

Amending article 29, paragraph 200, regulations No. 33 revised

Paragraph 200, of article 29, regulations No. 33 revised, is hereby amended to read as follows:

*Nonresident alien beneficiary.*—Where a fiduciary in the United States is the recipient of trust income for which there is but one beneficiary, and that beneficiary a nonresident alien, the fiduciary will be required to make full and complete return on income-tax form 1040 or 1040A, as the case may be, for this trust income on behalf of the nonresident alien, and pay any and all normal tax found by such return to be due, and any and all surtax, provided the income is not returned for the purpose of the tax by the beneficiary. Where there are two or more beneficiaries, one or all of whom are nonresident aliens, the fiduciary shall render a return on form 1041, and a personal return on form 1040 or 1040A, for each nonresident alien beneficiary.

(T. D. 2992, March 29, 1920)

### *Income tax*

Gross income defined—inclusions—article 33, regulations No. 45, amended

Article 33 of regulations No. 45 is hereby amended to read as follows:

ART. 33. *Compensation paid other than in cash.*—Where services are paid for with something other than money, the fair market value of the thing taken in payment is the amount to be included as income. If the services were rendered at a stipulated price, in the absence of evidence to the contrary, such price will be presumed to be the fair value of the compensation received. Compensation paid an employee of a corporation in its stock is to be treated as if the corporation sold the stock for its market value and paid the employee in cash. When living quarters, such as camps, are furnished to employees for the convenience of the employer, the ratable value need not be added to the cash compensation of the employee, but where a person receives as compensation for services rendered a salary and in addition thereto living quarters, the value to such person of the quarters furnished constitutes income subject to tax. Premiums paid by an employer on policies of group life insurance covering the lives of employees, the beneficiaries of which are designated by the employees, are not income to such employees.