

out apportionment amongst the states.”<sup>40</sup> Consistent with this holding, the Court has also ruled that, when an apartment house was acquired by bequest subject to an unassumed mortgage, and several years later was sold for a price slightly in excess of the mortgage, the basis for determining the gain from that sale was the difference between the selling price, undiminished by the amount of the mortgage, and the value of the property at the time of the acquisition, less deductions for depreciation during the years the building was held by the taxpayer. The latter’s contention that the Revenue Act, as thus applied, taxed something that was not revenue, was declared to be unfounded.<sup>41</sup>

As against the argument of a donee that a gift of stock became a capital asset when received and that therefore, when disposed of, no part of that value could be treated as taxable income to said donee, the Court has declared that it was within the power of Congress to require a donee of stock, who sells it at a profit, to pay income tax on the difference between the selling price and the value when the donor acquired it.<sup>42</sup> Moreover, “receipt in cash or property . . . not [being] the only characteristic of realization of income to a taxpayer on the cash receipt basis,” it follows that one who is normally taxable only on the receipt of interest payments cannot escape taxation thereon by giving away his right to such income in advance of payment. When “the taxpayer does not receive payment of income in money or property[,] realization may occur when the last step is taken by which he obtains the fruition of the economic gain which has already accrued to him.” Hence an owner of bonds, reporting on the cash receipts basis, who clipped interest coupons therefrom before their due date and gave them to his son, was held to have realized taxable income in the amount of said coupons, notwithstanding that his son had collected them upon maturity later in the year.<sup>43</sup>

<sup>40</sup> 309 U.S. at 469, 468.

<sup>41</sup> *Crane v. Commissioner*, 331 U.S. 1, 15–16 (1947).

<sup>42</sup> The donor could not, “by mere gift, enable another to hold this stock free from . . . [the] right . . . [of] the sovereign to take part of any increase in its value when separated through sale or conversion and reduced to possession.” *Taft v. Bowers*, 278 U.S. 470, 482, 484 (1929). However, when a husband, as part of a divorce settlement, transfers his own corporate stock to his wife, he is deemed to have exchanged the stock for the release of his wife’s inchoate, marital rights, the value of which are presumed to be equal to the current, market value of the stock, and, accordingly, he incurs a taxable gain measured by the difference between the initial purchase price of the stock and said market value upon transfer. *United States v. Davis*, 370 U.S. 65 (1962).

<sup>43</sup> *Helvering v. Horst*, 311 U.S. 112, 115 (1940). The Court was also called upon to resolve questions as to whether gains, realized after 1913, on transactions consummated prior to ratification of the Sixteenth Amendment are taxable, and if so, how such tax is to be determined. The Court’s answer generally has been that if the