

Example

This is not the H.W.

TAX MEMORANDUM

Example
only form

Summary of Facts

Sam Uncle is a resident of Indiana. He inherited land from his father in 2011 (fmv \$100,000), which he has rented to a farmer and has received \$2,000 in rental payments in 2011.

Summary of Issues

1. Is the inherited land income?
2. Is the rent received from the inherited property income?

Summary of Conclusions

1. Property inherited from a decedent is not taxable to the recipient under Sec. 102, IRC.
2. Income from inherited property, such as rent, is taxable to the recipient under Sec. 61, IRC, and not excluded under Sec. 102(b), IRC.

Discussion of Issues

Issue One

Taxpayer received land by inheritance. Sec. 102, IRC provides: [quote code]
Also, Reg. 1.102-1 provides [quote Reg.]

In *Smith v. Comm.*, 74-1 USTC para. 9266, 493 F.2d 608 (CA 2, 1974), taxpayer inherited land from his uncle, the court indicated that the inheritance was not taxable [quote from relevant portions of opinion]

See also, *Jones v. Comm.*, 88-1 USTC para 8888, 642 F.2d 102 (CA 9, 1988), and Rev. Rul. 75-448, 1975-2 C.B. 55.

Therefore, taxpayer will not be taxed on his inheritance.

Issue Two

Taxpayer rented inherited property and received rent therefrom. Sec. 61, IRC provides: [quote code], and Sec. 102(b) provides: [quote code]

Reg. 1.61-1 provides: [quote Reg.]

In the case of *Thomas v. Comm.*, 72-1 USTC para. 9129, 453 F.2d 61 (CA 2, 1972), taxpayer inherited corporate stock which paid dividends; the court stated that the dividends were taxable, [quote from relevant portions of opinion]

See also, *Green v. Comm.*, 68-2 USTC para. 9590, 289 F. Supp. 206 (SDNY, 1968), and *Jane Jones*, 67 T.C. 996 (1977).

Therefore, the rent, like the dividends in *Thomas*, is taxable.