1 T.C. 751 (1943)

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A cash bonus received for the assignment of an oil and gas lease is not considered "rent" or a "royalty" for the purpose of determining personal holding company income under Section 353 of the Revenue Act of 1936.

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Summary

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Clarion Oil Co. assigned its interest in an oil and gas lease for a cash payment of $120,000, an overriding royalty, and a further payment out of production. The Commissioner argued that the $120,000 constituted personal holding company income, leading to a surtax and penalty. The Tax Court held that the cash bonus was neither "rent" nor a "royalty" as defined in the statute, thus Clarion Oil was not a personal holding company. The court also addressed the deductibility of taxes and the treatment of depletion deductions when a lease proves unproductive. Finally, the court determined that a depletion deduction taken in a prior year must be included as taxable income in the year the lease was abandoned.

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Facts

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Clarion Oil Co. owned a three-fourths interest in an oil and gas lease.r
On July 3, 1937, Clarion assigned its interest to Humble Oil & Refining Company for $120,000 cash, an overriding royalty of 1/24 of production, and a further payment out of production until $320,000 was reached.r
Humble Oil drilled a well but found it unproductive and abandoned the lease before November 30, 1938.r
Clarion Oil claimed a $33,000 depletion deduction on the $120,000 bonus in its 1937 income tax return.r

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Procedural History

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The Commissioner determined deficiencies in Clarion Oil’s income tax, personal holding company surtax, and a penalty for failure to file a personal holding company return for 1937.r
The Commissioner also included the $33,000 depletion deduction from 1937 as taxable income for Clarion in 1938.r
Clarion Oil petitioned the Tax Court for a redetermination of these deficiencies. The cases were consolidated for hearing.r

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Issue(s)

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Whether the $120,000 cash payment Clarion Oil received for assigning its oil and gas lease was personal holding company income under Section 353 of the Revenue Act of 1936.r
Whether Clarion Oil could deduct its 1937 normal and excess profits taxes when computing its personal holding company surtax liability for 1937.r
Whether the $33,000 depletion deduction Clarion Oil took in 1937 should be included in its taxable income for 1938 when the lease proved unproductive.r

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Holding

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No, because the cash bonus was neither

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