***New Hampshire Fire Insurance Co. v. Commissioner, 2 T.C. 708 (1943)***

The Convention Form, as understood and applied in the insurance industry, controls the computation of income for insurance companies (other than life or mutual) for federal tax purposes, as mandated by statute.

**Summary**

This case addresses whether the Convention Form, a standard accounting method in the insurance industry, should govern the computation of income for tax purposes for insurance companies other than life or mutual companies, specifically regarding transactions with unadmitted companies. The Tax Court held that the Convention Form, which does not recognize transactions with unadmitted companies, must be used to compute taxable income. The court also addressed issues related to a loss sustained on the purchase and sale of the company's stock and the accrual of income and expenses related to impounded premiums.

**Facts**

New Hampshire Fire Insurance Co. and allied companies (petitioners) conducted insurance business, including transactions with "unadmitted companies" (companies not licensed to do business in a particular state). The Commissioner of Internal Revenue argued that income from these transactions should be included in the petitioners' tax returns. The petitioners contended that the Convention Form, universally accepted in the insurance industry, excludes transactions with unadmitted companies and should govern their tax computation. Additionally, New Hampshire Fire Insurance Co. repurchased its own stock at a price higher than the market value to maintain good relations with agents and accrued income and expenses related to impounded premiums from a Missouri rate case.

**Procedural History**

The Commissioner assessed deficiencies against the petitioners. The petitioners contested these deficiencies before the Tax Court, raising issues related to the inclusion of income from transactions with unadmitted companies, a loss on the sale of company stock, and the accrual of income and expenses from impounded premiums. The Tax Court consolidated the cases for review.

**Issue(s)**

1. Whether the statutory standard (Convention Form) governs the computation of income of insurance companies other than life or mutual, excluding transactions with unadmitted companies, under Section 204(b) of the Revenue Acts of 1936 and 1938.

2. Whether the petitioner, New Hampshire, sustained a deductible loss on the purchase and sale of its own stock.

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3. Whether the petitioner properly accrued income and expenses in connection with the impounded “Missouri rate case” premiums in 1935.

**Holding**

1. Yes, because Congress adopted the Convention Form as the standard for determining the tax on insurance companies other than life or mutual, and that form excludes transactions with unadmitted companies.

2. No, because the purchase price was paid for a purpose other than acquiring the securities, and the excess over market price was not a proper element of cost.

3. Yes, because the petitioner had a reasonable certainty in 1935 that it would receive a large portion of the impounded premiums, justifying the accrual of income and expenses.

**Court’s Reasoning**

The court reasoned that Congress was aware of the complexity of insurance taxation and, therefore, adopted the Convention Form as the standard. This form, universally used and accepted, does not recognize transactions with unadmitted companies. The court emphasized that laws must be interpreted in light of the commonly understood meaning of their language in the specific trade or business to which they apply. Regarding the stock repurchase, the court found that the excess payment was made for maintaining agent relations, not for acquiring the stock at market value, thus precluding a deductible loss. Finally, the court held that the petitioner properly accrued income and expenses from the impounded premiums because, by the end of 1935, the petitioner had reasonable certainty of receiving the funds based on the settlement decree and lack of intervention by policyholders. The court stated, “While the petitioner’s books for the year 1935 were still open, there remained nothing to be done except to carry out the terms of settlement and to dispose of the minor matter of attorneys’ fees. Under these circumstances the petitioner was led to believe, and properly so, that it was entitled to receive, and therefore to accrue, at least $60,000 of the impounded premiums…”

**Practical Implications**

This case provides clarity on the proper method for computing taxable income for insurance companies other than life or mutual, emphasizing the importance of adhering to the Convention Form. It confirms that transactions with unadmitted companies should not be included in income calculations for tax purposes. The decision highlights the importance of understanding industry-specific accounting standards when interpreting tax laws. Furthermore, the case clarifies the conditions under which accruing income and expenses is permissible, requiring a reasonable certainty of receiving the income or incurring the expense. This case is relevant to tax practitioners advising insurance companies and in understanding the nuances of

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tax law as it applies to specific industries.

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