Ohio Farmers Indemnity Co. v. Commissioner, 36 B.T.A. 1152 (1937)

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A mutual insurance company issuing policies providing for the payment of a cash premium does not automatically lose its identity as a mutual company for tax exemption purposes, but must also operate at cost to its members.

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Summary

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Ohio Farmers Indemnity Co. sought tax exemption as a mutual insurance company. The Board of Tax Appeals (BTA) determined that while the company operated as a mutual insurer by allowing policyholders to be members with voting rights, it was not entitled to a tax exemption because it did not operate at cost. The BTA focused on the high commission paid to the underwriting manager and the lack of dividends or redundancy payments to policyholders, indicating that the company was not operating primarily for the benefit of its members at cost.

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Facts

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Ohio Farmers Indemnity Co. was organized as a mutual insurance company. It collected insurance premiums at standard rates, similar to stock companies. A significant portion (47%) of collected premiums was paid to its underwriting manager, Gorson Bros., for their services. The company's bylaws allowed directors to declare dividends to policyholders, but no dividends or similar payments were made during the tax years in question. The company had to borrow guarantee funds, purportedly due to the large commission paid to the underwriting manager.

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Procedural History

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The Commissioner of Internal Revenue determined deficiencies in the company's

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income tax, disallowing deductions claimed under the premise that the company wasn’t a mutual company. The company petitioned the Board of Tax Appeals, arguing it was either exempt under Section 101(11) or taxable under Section 207 but entitled to deductions. The BTA upheld the Commissioner’s determination of deficiency.

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Issue(s)

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1. Whether Ohio Farmers Indemnity Co. qualifies for tax exemption as a mutual insurance company under Section 101(11) of the Internal Revenue Code.

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2. If not exempt, whether the company is taxable as a mutual insurance company under Section 207 and entitled to deductions for premium deposits retained for losses and expenses.

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Holding

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1. No, because while the company operated with mutual characteristics, it did not operate at cost to its members, failing a critical element for exemption.

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2. Yes, the company is taxable as a mutual insurance company, but is not entitled to additional deductions under Section 207(c)(3) because all allowable losses and expenses had already been deducted.

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Court’s Reasoning

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The BTA acknowledged that the company functioned as a mutual insurer by allowing policyholders to be members with voting rights, satisfying the

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