*5 T.C. 51 (1945)*

A lessor realizes income from leasehold improvements when the lessee effectively surrenders the lease, not when a nominee corporation holding the lease is formally dissolved.

**Summary**

The Grigsby Trust case addresses the timing of income realization when a lessor acquires improvements made by a lessee. The Tax Court held that the trust realized income in 1934, when the lessee effectively surrendered the leasehold by assigning it to a corporation wholly owned and controlled by the trust, not in 1939 when that corporation was dissolved. The court reasoned that the corporation was merely a nominee of the trust, and the trust's control over the property and rents demonstrated effective repossession in 1934. This case clarifies that the substance of the transaction, rather than its form, dictates when income is recognized.

**Facts**

The Grigsby Trust owned property leased to Owl Drug Co., which constructed a building on the land. Owl Drug Co. assigned the lease to its subsidiary, Owl Realty Co. Owl Realty Co. then defaulted on the lease, offering to surrender the leasehold. The trustees of the Grigsby Trust formed Long Beach Properties, Inc., and Owl Realty Co. assigned the lease to this new corporation. The Grigsby Trust controlled Long Beach Properties, Inc. and received all its net income as rent. Long Beach Properties, Inc. was dissolved in 1939, and its assets, including the leasehold, were transferred to the Grigsby Trust.

**Procedural History**

The Commissioner of Internal Revenue determined a deficiency in the Grigsby Trust's income tax for 1939, arguing that the trust realized income in that year upon the termination of the lease and acquisition of the building. The Grigsby Trust petitioned the Tax Court, contesting the deficiency.

**Issue(s)**

Whether the Grigsby Trust realized income in 1939, upon the dissolution of Long Beach Properties, Inc., or in 1934, when the lease was assigned to the corporation wholly owned and controlled by the trust?

**Holding**

No, the Grigsby Trust realized income in 1934, because Long Beach Properties, Inc. was merely a nominee of the trust, and the effective surrender of the lease occurred when it was assigned to that corporation.

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## Court’s Reasoning

The court applied the principle established in *Helvering v. Bruun, 309 U.S. 461*, that a lessor realizes income when improvements are acquired upon the surrender of a lease. The court emphasized that Long Beach Properties, Inc., was the trust’s nominee, and the trust controlled the corporation and received all its net income as rent. The court stated that “Income subject to one’s unfettered command and that he is free to receive as his own is income to him, whether he sees fit to receive it or not.” (citing *Corliss v. Bowers, 281 U.S. 376*). Because the trust effectively controlled the property from 1934, the income was realized at that time, not upon the corporation’s dissolution in 1939.

## Practical Implications

This case demonstrates that the timing of income recognition depends on the substance of a transaction, not merely its form. Attorneys should analyze the degree of control a lessor exercises over leased property and any related entities when determining when income is realized from leasehold improvements. The decision serves as a reminder that using nominee corporations will not necessarily defer income recognition if the lessor retains effective control. Later cases applying this ruling often focus on establishing the degree of control exerted by the lessor over the entity holding the leasehold interest. This case is especially relevant in tax planning for real estate transactions and lease agreements.

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