7 T.C. 992 (1946)

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When a taxpayer transfers property to family members in exchange for annuity agreements, and the fair market value of those agreements does not exceed the taxpayer's basis in the transferred property, no taxable gain is realized in the year of the transfer.

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Summary

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Bella Hommel transferred securities to her four children in exchange for their promises to pay her an annuity for life. No payments were made in the year of the transfer. The Commissioner of Internal Revenue argued this was a taxable event, calculating gains and losses on each security transferred. The Tax Court held that Hommel did not realize a taxable gain in the year of the transfer because the fair market value of the annuity agreements did not exceed her basis in the securities, regardless of whether the transaction was viewed as a sale or purchase of an annuity.

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Facts

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On December 9, 1941, Bella Hommel transferred securities to each of her four children. In return, each child agreed to pay Hommel $2,132 annually, starting in 1942, for the remainder of her life.r
Separate annuity agreements were created between Hommel and each child, detailing the specific securities transferred to each.r
The annuity payments were determined based on rates offered by commercial annuity companies.r
Each of Hommel's children had independent income and property.r
The agreements were binding on the children's heirs, executors, administrators, and assigns for Hommel's lifetime.r
No annuity payments were made to Hommel in 1941.r
Hommel's basis in the transferred securities was $102,223.78, while the total fair market value on December 9, 1941, was $96,768.52.r

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Procedural History

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The Commissioner of Internal Revenue determined a deficiency in Hommel's 1941 income tax.r
Hommel contested the deficiency, arguing that the transfer did not result in a taxable gain.r
The Tax Court reviewed the Commissioner's determination.r

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Issue(s)

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Whether the transfer of securities to her children in exchange for annuity agreements resulted in a taxable gain to Hommel in 1941, when no payments were received that year and the fair market value of the annuity agreements was less than her basis in the securities.r

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Holding

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No, because the fair market value of the annuity contracts received by Hommel did not exceed her basis in the securities transferred, and she received no payments in the taxable year.r

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Court's Reasoning

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The Tax Court assumed Hommel was on the cash basis, as both parties did. If the

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transaction is treated as a sale of securities, Hommel's gain is limited to the amount by which the fair market value of the annuity contracts exceeded her basis in the securities under Sections 111(a) and 111(b) of the Internal Revenue Code. Because the obligors were individuals and not

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