8 T.C. 1051 (1947)

Employer contributions to an employee trust are not tax-exempt under Section 165 if the trust does not qualify as a bona fide stock bonus, pension, or profit-sharing plan, and contributions that are forfeitable are not taxable to the employee until the forfeiture condition lapses.

Summary

Harold Perkins challenged the Commissioner's assessment of a deficiency, arguing that a contribution made by his employer, Nash-Kelvinator Corporation (Nash), to a trust for his benefit should be tax-exempt under Section 165 of the Internal Revenue Code. The Tax Court held that the trust did not qualify as an exempt employee's trust under Section 165 because it was essentially a bonus payment to key executives, not a broad-based pension plan. However, the Court also found that half of the contribution was not taxable in the year it was made because it was subject to forfeiture if Perkins left Nash's employment within five years.

Facts

Nash created a trust in 1941 for the benefit of four key vice presidents, including Perkins, to ensure their continued employment. Nash contributed $110,000 to the trust, with $20,000 allocated to Perkins. Half of the contribution was used to purchase an annuity contract for Perkins, while the other half was subject to forfeiture if Perkins left Nash's employment within five years. Nash simultaneously paid cash bonuses to other employees. The trust instrument specified that no trust property would revert to Nash. Perkins included $1,125.20 in his 1941 taxable income, representing the portion of the premium allocated to the life insurance feature of his annuity policy.

Procedural History

The Commissioner of Internal Revenue determined a deficiency in Perkins' income tax for 1941, including the $20,000 contribution to the trust in his taxable income. Perkins contested the deficiency, arguing the trust qualified under Section 165, and the forfeitable portion should not be taxed. The Tax Court reviewed the Commissioner's determination.

Issue(s)

1. Whether the trust established by Nash for the benefit of Perkins and three other executives qualified as an exempt employees' trust under Section 165 of the Internal Revenue Code.
2. Whether the portion of the contribution to the trust that was subject to forfeiture was taxable to Perkins in the year the contribution was made.

Holding

1. No, because the trust was essentially a bonus plan for a select few executives, rather than a broad-based pension or profit-sharing plan for employees, and it did not demonstrate an intent to create a true pension plan.
2. No, because contributions to an employee's beneficial interest which are forfeitable at the time the contribution is made is not taxable to him at that time.

Court's Reasoning

The Tax Court reasoned that the trust did not meet the requirements of Section 165, emphasizing that the trust covered only four highly compensated executives and appeared to be a one-time bonus payment. The Court noted, "The payment of $110,000 in trust for the benefit of these four men was in the nature of a bonus or additional compensation for their services for one year. No intention to create a pension plan appears." The Court also pointed out that Nash was under no obligation to make further contributions to the trust. Regarding the forfeitable portion of the contribution, the Court relied on Treasury Regulations and prior case law, such as *Julian Robertson, 6 T.C. 1060*, holding that contributions that are subject to a substantial risk of forfeiture are not taxable to the employee until the restriction lapses. "It has been held, in accordance with the Commissioner's regulations, that an employee's beneficial interest which is forfeitable at the time the contribution is made is not taxable to him at that time."

Practical Implications

The *Perkins* case clarifies the criteria for a trust to qualify as an exempt employees' trust under Section 165. It highlights the importance of demonstrating a genuine intent to create a broad-based pension, stock bonus, or profit-sharing plan, rather than simply using a trust as a vehicle for paying bonuses to select executives. The case also reinforces the principle that contributions to a trust are not taxable to the employee if they are subject to a substantial risk of forfeiture. This decision affects how employers structure employee benefit plans and how employees report income from such plans. Later cases distinguish *Perkins* by emphasizing the ongoing nature of contributions to valid pension plans and the broad scope of employee coverage.