*Hooker Electrochemical Co. v. Commissioner, 8 T.C. 1120 (1947)*

A corporate expense is properly accrued when all events have occurred that determine the fact of the liability and the amount thereof can be determined with reasonable accuracy, even if payment is contingent on legality, and an individual constructively receives income when it is made available to them without restriction.

**Summary**

Hooker Electrochemical Co. sought to deduct bonus payments to employees in its fiscal year ending November 30, 1942. The IRS challenged the deduction, arguing the liability was contingent due to concerns about violating wartime executive orders. The Tax Court held that the company properly accrued the expense because the liability was fixed and the contingency was merely a concern about legality, which was later resolved. Additionally, the court found that individual employees constructively received the bonus income in 1942, as checks were issued without restriction, even though the employees delayed cashing them due to the same legality concerns.

**Facts**

In January 1942, Hooker Electrochemical Co. fixed base salaries and estimated additional compensation based on anticipated profits.
Profits were realized as anticipated.
On November 12, 1942, the board of directors awarded additional compensation but stipulated that payment would only be made if not prohibited by executive order.
The matter was referred to an attorney, who advised that payment was permissible.
Checks were issued without restriction shortly thereafter.
Regulations were subsequently issued, seemingly justifying the attorney's opinion.
Individual petitioners received checks in 1942, with ample funds available to pay them but did not immediately cash them.

**Procedural History**

The Commissioner of Internal Revenue disallowed the deduction claimed by Hooker Electrochemical Co. and assessed deficiencies against the individual employees who received bonus payments. The taxpayers petitioned the Tax Court for review.

**Issue(s)**

1. Whether Hooker Electrochemical Co. could properly accrue and deduct bonus payments to its employees for the fiscal year ended November 30, 1942, given the contingency related to potential violation of an executive order.
2. Whether the individual employees constructively received the bonus payments in 1942, despite not cashing the checks due to concerns about the legality of the payments.

 

**Holding**

1. Yes, because the company's liability was fixed by the board's resolution, and the contingency regarding legality was resolved within the taxable year.
2. Yes, because the checks were received without restriction, and the employees' decision to delay cashing them was based on their own concerns, not on any restriction imposed by the company.

**Court's Reasoning**

The court reasoned that the action of the directors recognized the responsibility to pay additional compensation for services rendered. The contingency related to the executive order was merely an implicit proviso that payments should not be illegal, a condition that the company could waive. The subsequent issuance of valid checks after counsel advised that the payments were legal constituted such a waiver, removing any contingency.

Regarding constructive receipt, the court emphasized that the employees were under no instruction or compulsion to refrain from cashing the checks. The absence of any restriction on their right to cash the checks led the court to conclude that they constructively received the income in 1942. The court distinguished *Charles G. Tufts, 6 T.C. 217*, noting that in that case, the employer was unwilling to pay the amount, no payment was made, and the amount was not accrued as a liability on the employer's books.

As the court noted, "It would be difficult to think of more convincing proof than actual payment to establish that there was no such contingency in payment as to preclude the accrual of the items to be paid."

**Practical Implications**

This case clarifies the conditions for accruing expenses and recognizing constructive receipt of income. The key takeaway is that a contingency must be a real restriction on payment, not merely a concern about legality that is ultimately resolved. For accrual, all events fixing the liability must have occurred. For constructive receipt, the funds must be available to the taxpayer without substantial restriction. This case is important for tax planning and compliance, particularly when dealing with bonus payments, deferred compensation, or other situations where payment is delayed or contingent on certain events. Later cases applying this ruling would likely focus on whether the purported restriction was bona fide and whether the taxpayer had unfettered control over the funds.