8 T.C. 1326 (1947)

A tax is properly accrued in the year in which the liability becomes fixed and the amount is determinable, even if the tax is not yet due.

Summary

Durst Productions Corp., an accrual basis taxpayer, sought to deduct New York State franchise taxes for its fiscal year ending May 31, 1944. The tax, based on the income of that fiscal year, was payable in September 1944 and thereafter. The Tax Court held that the franchise tax was accruable in the fiscal year ending May 31, 1944, because the computation of the tax was fixed by the income of that year, and the obligation to pay was inescapable at the end of the year, regardless of when the payments were due. This decision aligns with the principle established in *United States v. Anderson* that taxes accrue when the liability is fixed and the amount is reasonably ascertainable.

Facts

Durst Productions Corp. was a New York corporation filing its tax returns on an accrual basis with a fiscal year ending May 31.

In 1944, New York amended its franchise tax provisions (Article 9A of the New York Consolidated Laws).

The amended law required Durst to file a report within four months after the close of its fiscal year (May 31, 1944), based on its operations for that year.

The tax was computed based on Durst’s income for the fiscal year, with half due at the time of filing (September 4, 1944) and the remainder due later.

Durst filed its return on September 4, 1944, and paid half the tax at that time, with the remainder paid on March 2, 1945.

Procedural History

The Commissioner of Internal Revenue determined deficiencies in Durst’s declared value excess profits tax and excess profits tax for the taxable year ending May 31, 1944.

The dispute centered on whether Durst could deduct the New York State franchise tax for that fiscal year.

The case was brought before the United States Tax Court.

Issue(s)

Whether a New York State franchise tax, computed based on the income of a given fiscal year but payable partly in the subsequent fiscal year, is deductible by an accrual basis taxpayer in the fiscal year the income was earned.

Holding

Yes, because the liability for the New York State franchise tax became fixed and the amount was determinable during the fiscal year ending May 31, 1944, making it accruable in that year, regardless of when the payments were due.

Court’s Reasoning

The Tax Court relied on the principle established in *United States v. Anderson*, which states that a tax is accruable when all events have occurred that fix the amount of the tax and determine the liability of the taxpayer to pay it.

The court emphasized that the computation of the franchise tax was fixed by the income of the 1944 fiscal year, and the obligation to pay the tax was inescapable once the year ended.

The fact that the tax was not yet due did not prevent its accrual, as the liability was present because Durst continued in business.

The court noted that calculating the tax based on the earnings for the year in question aligned with the theory of accrual accounting.

The court also referenced the Commissioner’s position on a comparable Tennessee enactment, supporting the deduction of the tax as an accrued liability.

Practical Implications

This case clarifies that for accrual basis taxpayers, the key factor in determining when a tax liability is deductible is when the obligation becomes fixed and the amount is reasonably ascertainable, not when the tax is actually due.

Attorneys should advise clients that state and local taxes are generally deductible in the year the taxable event occurs, leading to a fixed liability, even if payment is deferred.

This ruling has implications for tax planning, allowing businesses to accurately match expenses with revenue in the appropriate accounting period.

The principle in *Durst Productions* has been consistently applied in subsequent cases addressing the accrual of various types of taxes, reinforcing the importance of identifying the point at which liability becomes fixed and determinable.