9 T.C. 967 (1947)

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Income is constructively received when it is credited to a taxpayer's account, set apart for them, and made available without substantial limitations or restrictions, allowing them to draw upon it at any time.

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Summary

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Aramo-Stiftung, a foreign entity, was deemed to have constructively received dividends from U.S. corporations even though the dividends were held by brokers pending proof of ownership. The Tax Court held that the dividends were available to Aramo-Stiftung without substantial restriction, as the brokers' requirements were merely for proof of identity. The court also upheld penalties for failure to file income tax returns, as Aramo-Stiftung failed to provide reasonable cause for the failure. This case clarifies the application of the constructive receipt doctrine when funds are held by an intermediary pending verification of ownership.

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Facts

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Aramo-Stiftung claimed ownership of stock in domestic corporations, with dividends paid to brokers who were the record owners. The stock had been transferred to the brokers through instructions from Swiss bankers to Oak Commercial Corporation. In 1945, Aramo-Stiftung requested the brokers to pay the dividends, but the brokers required guarantees and other information before releasing the funds. Aramo-Stiftung did not provide the requested information during the tax years in question (1940-1943).

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Procedural History

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The Commissioner determined that Aramo-Stiftung was subject to federal income tax on the dividends and assessed penalties for failure to file tax returns. Aramo-Stiftung petitioned the Tax Court for review. The Tax Court upheld the Commissioner's determination regarding constructive receipt and penalties.

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Issue(s)

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1. Whether Aramo-Stiftung constructively received dividends from domestic corporations when the dividends were held by brokers pending proof of ownership.

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2. Whether Aramo-Stiftung was liable for penalties for failure to file income tax and personal holding company tax returns.

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Holding

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1. Yes, because the dividends were set apart and made available to Aramo-Stiftung without substantial limitations or restrictions; the brokers' requirements were merely for proof of identity.

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2. Yes, because Aramo-Stiftung failed to show reasonable cause for its failure to file timely tax returns.

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Court's Reasoning

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The court relied on Treasury Regulations that define constructive receipt. "To constitute receipt in such a case the income must be credited or set apart to the taxpayer without any substantial limitation or restriction as to the time or manner of payment or condition upon which payment is to be made, and must be made available to him so that it may be drawn at any time, and its receipt brought within

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his own control and disposition." The court found that the dividends were

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