17 T.C. 249 (1951)

Employer contributions to an employee annuity trust, used to purchase annuity contracts, are not included in the employee's income in the year the contributions are made if the requirements of Section 165(d) of the Internal Revenue Code are met.

Summary

The case addresses whether employer contributions to a pension trust for the purchase of annuity contracts for employees should be included in the employees' taxable income for 1942 and 1943. The Tax Court held that under Section 165(d) of the Internal Revenue Code, as amended by Public Law No. 378, these contributions are not includable in the employees' income because the contributions were used to purchase annuity contracts under a written agreement entered into before October 21, 1942, and the employees were not entitled to payments other than annuity payments during their lifetimes.

Facts

Berg and Allenberg were employees of the Berg-Allenberg corporation. In 1942 and 1943, the corporation contributed to a pension trust for the purchase of annuity contracts for Berg and Allenberg. The contributions for Berg were $23,504 annually, and for Allenberg, $17,034 annually. The pension trust agreement was established on June 30, 1940. The written agreement between the employer and the trustees was entered into prior to October 21, 1942. Under the terms of the trust agreement, the employees were not entitled during their lifetime to any payments under the annuity contracts purchased by the trustee other than annuity payments.

Procedural History

The Commissioner of Internal Revenue determined that the contributions to the pension trust should be included in Berg and Allenberg's income for 1942 and 1943. Berg and Allenberg petitioned the Tax Court for a redetermination. The case was submitted before the enactment of Public Law No. 378, which amended Section 165 of the Internal Revenue Code. The Tax Court considered the case after the enactment of Public Law 378.

Issue(s)

Whether employer contributions to an employee annuity trust, applied by the trustees to purchase annuity contracts for the employees, should be included in the employees' taxable income for the years 1942 and 1943, given the provisions of Section 165(d) of the Internal Revenue Code?

Holding

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No, because the contributions met the requirements of Section 165(d) of the Internal Revenue Code, as they were used to purchase annuity contracts under a written agreement entered into before October 21, 1942, and the employees were not entitled to payments other than annuity payments during their lifetimes.

Court's Reasoning

The court focused on the newly enacted Section 165(d) of the Internal Revenue Code, which provided specific conditions under which employer contributions to an employee annuity trust would not be included in the employee's income. The court found that the facts satisfied these conditions: (1) the contributions were applied by the trustees to purchase annuity contracts for Berg and Allenberg; (2) the contributions were made pursuant to a written agreement entered into prior to October 21, 1942; and (3) the employees were not entitled during their lifetime to any payments under the annuity contracts other than annuity payments. The court noted, "Notwithstanding subsection (c) or any other provision of this chapter, a contribution to a trust by an employer shall not be included In the Income of the employee in the year in which the contribution Is made if…[the conditions are met]." Because these conditions were met, the court concluded that the amounts contributed by the employer should not be included in the employees' income.

Practical Implications

This case clarifies the application of Section 165(d) of the Internal Revenue Code regarding the tax treatment of employer contributions to employee annuity trusts. It provides a specific example of how the statute applies when contributions are used to purchase annuity contracts under a pre-October 21, 1942 agreement. Attorneys should consider the specific requirements of Section 165(d) when advising clients on the tax implications of employer contributions to employee annuity trusts, particularly regarding the timing of the written agreement and the nature of the payments received by the employees. The case is particularly relevant when dealing with older pension plans established before the specified date. This ruling ensures that employees in similar situations can exclude these contributions from their income, provided that all conditions of Section 165(d) are met, influencing tax planning and compliance for both employers and employees involved in such annuity arrangements.

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