15 T.C. 832 (1950)

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Liquidating dividends received on assigned bank deposit claims, evidenced only by instruments from the assignors, are not amounts received upon retirement of corporate indebtedness in registered form and thus do not qualify for capital gains treatment under Section 117(f) of the Internal Revenue Code.

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Summary

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Winifred Lynn received liquidating dividends from a closed bank on claims her deceased husband had purchased. These claims were acquired via written assignments from original depositors. The Tax Court had to determine whether these dividends qualified for capital gains treatment under Section 117(f) of the Internal Revenue Code, which applies to amounts received upon retirement of corporate indebtedness in registered form. The court held that the dividends did not qualify because the assignments were not evidences of indebtedness issued by the corporation (the bank), but rather by the individual depositors. Therefore, the full amount of the dividends was includible in Lynn's taxable income.

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Facts

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Harry Lynn, Winifred's husband, purchased claims against Union Savings Bank & Trust Co. (the bank) after it went into receivership in 1932. He bought these claims at a discount from the original depositors, intending to profit from the bank's liquidation. The claims were held in the name of "Harry C. Lynn or Winifred H. Lynn: Payable to either or survivor." The bank's books were considered prima facie evidence of claim to original depositors. To purchase claims, Lynn received written assignments from the original owners. These assignments were actively traded in Davenport, Iowa.r

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Procedural History

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Winifred Lynn reported the liquidating dividends she received in 1944 and 1946 as long-term capital gains, including only one-half in her taxable income. The Commissioner of Internal Revenue determined that the full amount of the payments was includible in her income for each year, arguing it was not a capital gain. The Tax Court sided with the Commissioner.r

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Issue(s)

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Whether liquidating dividends received by the petitioner on account of assigned deposit claims against a closed bank constitute amounts received upon the retirement of evidence of indebtedness issued by a corporation in registered form within the meaning of Section 117(f) of the Internal Revenue Code, thus qualifying for capital gains treatment.r

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Holding

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No, because the assignments of claims against the bank were not

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