17 T.C. 225 (1951)

A cash basis taxpayer selling stock for an indeterminate future sum realizes gain in the year the payments received exceed the cost basis, and the character of the gain (short-term or long-term) is determined by the holding period up to the date of the initial sale, not the date the final price is determined.

Summary

Cluff, a cash basis taxpayer, sold stock in 1942 for an indeterminate amount to be paid in the future based on the buyer's production. In 1944, Cluff and the buyer agreed on a fixed purchase price. Cluff reported a short-term capital gain in 1944 when initial payments exceeded his cost basis and a long-term capital gain in 1945 for the final payment. The Tax Court held that the 1942 transaction was a sale, not an exchange for contracts, and that the gain was realized in 1945 when the payments were received. Because Cluff held the stock for less than six months before the 1942 sale, the gain was a short-term capital gain, regardless of when the final price was determined or payment received.

Facts

- On June 1, 1942, William Cluff purchased 10 shares of National Bronze & Aluminum Products Company stock for $25,000.
- On July 29, 1942, Cluff entered into agreements to sell these shares to The National Bronze & Aluminum Foundry Company. The payments were based on a percentage of the Foundry Company's sales.
- Cluff delivered the shares to the Foundry Company's agent on July 30, 1942.
- In 1942, Cluff received $17,168.20, and in 1943, he received $4,941.20 under the agreements.
- On January 21, 1944, Cluff and the Foundry Company agreed to a fixed purchase price payable in monthly installments.
- In 1944, Cluff received $6,140.40 under the new agreement, reporting $3,038.14 as short-term capital gain.
- In 1945, Cluff received $5,350.80 and reported it as a long-term capital gain.

Procedural History

The Commissioner of Internal Revenue determined a deficiency in Cluff's 1945 income tax, arguing that the $5,350.80 received in 1945 should have been reported as a short-term capital gain. Cluff petitioned the Tax Court for review.

Issue(s)

1. Whether the 1942 transaction constituted a sale of stock or an exchange for contracts of indeterminate value.
2. Whether the gain realized in 1945 was a short-term or long-term capital gain.

Holding

1. Yes, because the language of the contracts and the actions of the parties indicated a sale of stock occurred in 1942.
2. Yes, because the holding period for determining short-term or long-term gain is measured from the purchase date to the date of sale, and the sale occurred less than six months after the purchase.

Court’s Reasoning

The court determined that the 1942 transaction was a sale, relying on the language used in the contracts, receipts, and Cluff’s own statements at the time. The court distinguished this case from situations where the exchange is for property of indeterminate fair market value. The court emphasized that the shares were delivered to the purchaser’s agent in 1942. The court cited Burnet v. Logan, 283 U.S. 404, but distinguished it, implying that while the amount to be paid was initially uncertain, the underlying transaction was still a sale. The court stated,