17 T.C. 562 (1951)

Distributions from an employee's pension trust are taxed as ordinary income unless the total distribution is made within one taxable year due to the employee's separation from service.

Summary

Edward Glinske received a distribution from his employer's discontinued pension trust and claimed it as a long-term capital gain on his 1946 tax return. The Tax Court ruled against Glinske, holding that because the distribution was not due to his separation from service, it did not qualify for capital gains treatment under Section 165(b) of the Internal Revenue Code. The court determined that the distribution was ordinary income, taxable under the annuity rules of Section 22(b)(2) since Glinske made no contributions to the trust.

Facts

Cochrane Corporation established a pension trust for its employees in 1942, and Glinske participated in the plan. Glinske made no contributions to the pension trust. In 1945, Cochrane Corporation sold its assets and discontinued the pension trust plan. A court ordered the trustee to distribute the pension fund to the beneficiaries. Glinske received $1,355.71 as his distributive share in 1946.

Procedural History

Glinske reported the $1,355.71 distribution as a long-term capital gain on his 1946 income tax return. The Commissioner of Internal Revenue determined a deficiency, asserting that the distribution was ordinary income. Glinske petitioned the Tax Court for a redetermination of the deficiency.

Issue(s)

Whether the distribution received by Glinske from the Cochrane Corporation pension trust in 1946 should be taxed as ordinary income or as a long-term capital gain.

Holding

No, because the distribution was not made on account of Glinske's separation from service, it does not qualify for capital gains treatment under Section 165(b) of the Internal Revenue Code. The distribution is ordinary income.

Court's Reasoning

The court interpreted Section 165(b) of the Internal Revenue Code, which governs the taxability of beneficiaries of employee trusts. The court explained that the first portion of Section 165(b) relates to recurrent distributions from a pension trust, which are taxable under Section 22(b)(2)(B) as annuity income. Because Glinske made no contributions to the trust, the entire distribution constituted ordinary income. The second portion of Section 165(b) applies to total distributions made within one taxable year due to the employee's separation from service. The court emphasized that "total distributions 'on account of the employee's separation from the service' means that the distributions were made on account of the employee's separation from the service of *his employer*." Since Glinske's distribution was due to the termination of the pension plan, not his separation from service, it did not qualify for capital gains treatment. As the court stated, "Petitioner, as one of the parties entitled thereto, elected to take the proceeds by surrendering his annuity contracts under the pension trust for cash. He received the major portion of his total distributions from the pension trust in 1946, and since he contributed nothing toward the purchase of the annuity contracts the entire distribution constituted ordinary income to him."

Practical Implications

The *Glinske* case clarifies the distinction between ordinary income and capital gains treatment for distributions from employee pension trusts. It emphasizes that the reason for the distribution is crucial. To qualify for capital gains treatment, the distribution must be a total distribution made within one taxable year and must be directly related to the employee's separation from service from their employer. The case informs legal practice by requiring a careful analysis of the circumstances surrounding pension trust distributions to determine the appropriate tax treatment. Subsequent cases and IRS guidance have further refined the definition of "separation from service," but the core principle established in *Glinske* remains relevant: the reason for the distribution, not merely the fact of distribution, dictates its tax characterization. This case also highlights that distributions because of plan termination while the employee continues to work for a successor of the employer are not considered as distributions on account of separation from service.

