18 T.C. 31 (1952)

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A cash-basis taxpayer realizes income upon the receipt of a check, even if received after banking hours on the last day of the taxable year, provided the check is not subject to any substantial restriction.

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Summary

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Charles Kahler, a cash-basis taxpayer, received a commission check on December 31, 1946, after banking hours. The IRS determined that the commission should be included in Kahler's 1946 income. Kahler argued that because he couldn't cash the check until 1947, it shouldn't be taxed until then. The Tax Court held that Kahler constructively received the income in 1946 when he received the check, reasoning that payment by check is conditional upon the check being honored, and once honored, the payment relates back to the date of delivery, absent any restriction on the check's use.

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Facts

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Kahler, a cash-basis taxpayer, worked for a seed company and received a base salary and commissions. On December 31, 1946, after 5 p.m., Kahler received a commission check for $4,332.97, dated December 31, 1946. He cashed the check on January 2, 1947. Kahler typically received his commission checks for any given year sometime during the following year and reported the commission as income in 1947. The employer, on an accrual basis, deducted the commission payment on its 1946 tax return.

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Procedural History

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The Commissioner of Internal Revenue determined a deficiency in Kahler's 1946 income tax, asserting that the commission check was taxable in 1946, not 1947. Kahler petitioned the Tax Court for review. The Tax Court ruled in favor of the Commissioner.

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Issue(s)

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Whether a cash-basis taxpayer realizes income in the year a commission check is received, even if received after banking hours on the last day of the taxable year.

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Holding

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Yes, because under the negotiable instruments law, payment by check is a conditional payment subject to the condition that it will be honored upon presentation; and once such presentation is made and the check is honored, the date of payment relates back to the time of delivery, absent any restriction on the check's use.

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Court's Reasoning

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The court reasoned that the determining factor is when the taxpayer

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