18 T.C. 91 (1952)

Proceeds from the sale of a book, where the author transferred all substantial rights to the publisher for the copyright term, are treated as long-term capital gains if the holding period of the completed manuscript exceeds six months.

Summary

Dr. TeLinde, a physician, sold the rights to his book, "Operative Gynecology," to a publisher. The Tax Court addressed whether payments received were ordinary income (royalties) or proceeds from the sale of a capital asset. The court determined that Dr. TeLinde transferred all substantial rights to the publisher, constituting a sale. Furthermore, the court held that the holding period began when the manuscript was substantially complete (more than six months before delivery), entitling the author to long-term capital gains treatment.

Facts

Dr. TeLinde, a gynecologist and professor, compiled notes and illustrations over years of practice and teaching. He entered an agreement with J.B. Lippincott Company (the publisher) on August 20, 1941, to publish a book tentatively titled "Operative Gynecology." The agreement granted the publisher the exclusive right to publish the work and obtain the copyright. Dr. TeLinde agreed to deliver the completed manuscript by November 15, 1942. Dr. TeLinde received payments in 1947 and 1948, which he reported as long-term capital gains.

Procedural History

The Commissioner of Internal Revenue determined deficiencies in Dr. TeLinde's income tax for 1947 and 1948, arguing that the payments were either ordinary income (royalties) or short-term capital gains. Dr. TeLinde petitioned the Tax Court, challenging the Commissioner's determination.

Issue(s)

1. Whether the payments received by Dr. TeLinde from the publisher constituted royalties (ordinary income) or proceeds from the sale of a capital asset (capital gains).
2. If the payments constituted proceeds from the sale of a capital asset, whether the asset (the book manuscript) was held for more than six months.

Holding

1. Yes, the payments constituted proceeds from the sale of a capital asset because Dr. TeLinde transferred all substantial rights in the copyright to the publisher.
2. Yes, the asset was held for more than six months because the manuscript was

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substantially completed more than six months before its delivery to the publisher.

Court’s Reasoning

The court reasoned that the agreement transferred all substantial rights to the publisher for the copyright term, which is the essential element of a sale rather than a license. The publisher obtained the copyright, owned the plates and books, and had the right to license translations. The agreement stated that the publisher had the

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