Dick Brothers, Inc. v. Commissioner, 22 T.C. 860 (1954)

A contribution to an employees' pension trust is deductible for a given tax year only if it is actually paid to the trust within 60 days after the close of that taxable year, and the mere preparation and signing of a check within that period, without proof of delivery to the trustee, is insufficient to establish timely payment.

Summary

Dick Brothers, Inc., an accrual-basis taxpayer, sought to deduct a contribution to its employee pension trust for the 1945 tax year. While the company accrued the expense and prepared a check payable to the trustee within 60 days of the year's end, the Tax Court disallowed the deduction. The court reasoned that the taxpayer failed to prove the check was actually delivered to the trustee within the 60-day statutory period. The internal transfer of the check and a transmittal letter among members of the company's pension committee did not constitute delivery to the trustee.

Facts

Dick Brothers, Inc., created an employee pension trust. The trust agreement appointed a Pension Committee of three members, all of whom were company directors. The company accrued sums monthly on its books representing its contribution to the trust. After the close of the calendar year 1945, the company's actuary determined the total contribution to be $42,547.88. On February 28, 1946, within the 60-day grace period, the company treasurer signed a check for the contribution and the Pension Committee signed a letter transmitting the check to the Trustee. The check and letter were left with the treasurer for delivery, but the Trustee acknowledged receipt on March 4, 1946, outside the 60-day window.

Procedural History

Dick Brothers, Inc. deducted the pension contribution on its 1945 tax return. The Commissioner disallowed the deduction. The Tax Court reviewed the Commissioner's determination.

Issue(s)

Whether the taxpayer's contribution to the employee pension trust was

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