лыщвсыътсо. v. Commissioner, 21 T.C. 679 (1954)

A taxpayer cannot avoid income recognition in a particular year when the only impediment to receiving income is their own volition, even if they are also a director of the corporation declaring the dividend.

Summary

The Tax Court held that a taxpayer constructively received dividend income in the year the dividend was declared, even though he stipulated that his check should be mailed to him and received the check in the following year. The court reasoned that the taxpayer, as a director and stockholder, had the power to receive the dividend when declared and that delaying receipt was solely due to his own volition. The other stockholder received and cashed their dividend check in the year the dividend was declared.

Facts

The taxpayer was a director and stockholder of a corporation. The corporation declared a dividend. The taxpayer stipulated that his dividend check would be mailed to him. The other stockholder received and cashed their dividend check in the year the dividend was declared. The taxpayer received his dividend check in the following year and argued that it should be taxed in that later year.

Procedural History

The Commissioner of Internal Revenue determined that the taxpayer should have included the dividend income in the year the dividend was declared. The taxpayer petitioned the Tax Court for a redetermination. The Tax Court upheld the Commissioner's determination.

Issue(s)

Whether a taxpayer constructively receives income in a particular tax year, when the only barrier to receiving the income is the taxpayer's own volition?

Holding

Yes, because the taxpayer's own volition was the only thing preventing him from receiving the dividend check when it was declared. The other stockholder received their check in the earlier year, so it was illegal and discriminatory for the taxpayer not to be able to receive their check as well.

Court's Reasoning

The court relied on the doctrine of constructive receipt, which prevents taxpayers from choosing the year in which to report income by simply choosing the year in

© 2025 SCOTUSreports.com. All rights reserved.

which they reduce it to possession. Citing *Ross v. Commissioner*, the court emphasized that the Treasury may tax income when the only obstacle to the taxpayer's possession of the income is the taxpayer's own volition. The court distinguished *Avery v. Commissioner*, which held that a corporation's policy could control the timing of dividend payments, because, in the present case, it was the taxpayer's own action preventing the check from being delivered to them. The other stockholder received their check during the year the dividend was declared and cashed it. It was therefore illegal for the taxpayer to have their check delivered later. The court noted that the taxpayer had the power to sign checks, further supporting the conclusion that he could have received the dividend when declared.

Practical Implications

This case reinforces the principle that taxpayers cannot deliberately manipulate the timing of income recognition for tax advantages. It highlights the importance of examining whether a taxpayer's actions, rather than external restrictions, are the primary reason for delayed receipt of income. The case serves as a reminder that the constructive receipt doctrine can apply even to stockholders who are also corporate directors, particularly when there is evidence that the taxpayer could have accessed the funds earlier. This case is often cited in situations where taxpayers attempt to defer income recognition through self-imposed limitations or arrangements, and it underscores the importance of demonstrating a genuine corporate restriction on the availability of funds rather than a taxpayer's voluntary choice.

© 2025 SCOTUSreports.com. All rights reserved.