Frank W. Kunze v. Commissioner, 19 T.C. 29 (1952)

A taxpayer cannot avoid recognizing income in a particular year by voluntarily arranging to delay actual receipt when the funds were otherwise available without restriction.

Summary

The Tax Court held that a taxpayer constructively received dividend income in the year the dividend was declared, even though he arranged for the check to be mailed to him in the following year. The court reasoned that the taxpayer, as a director of the closely held corporation, had the power to receive the dividend check without restriction in the year it was declared and his voluntary decision to delay receipt did not prevent constructive receipt. The court distinguished Avery v. Commissioner, emphasizing that the delay was due to the taxpayer's own volition, not a binding corporate restriction.

Facts

Frank W. Kunze was a stockholder and director of a closely held corporation. In December, the corporation declared a dividend. Kunze arranged for his dividend check to be mailed to him in January of the following year. The other stockholder received and cashed their dividend check in December. Kunze argued that he should not be taxed on the dividend income until the year he actually received the check.

Procedural History

The Commissioner of Internal Revenue determined that Kunze constructively received the dividend income in the year the dividend was declared. Kunze petitioned the Tax Court for a redetermination of the deficiency.

Issue(s)

Whether the taxpayer constructively received dividend income in the year the dividend was declared when he voluntarily arranged for the check to be mailed to him in the following year.

Holding

Yes, because the taxpayer's own volition was the only thing preventing him from receiving the check in the year it was declared, and the corporate intent did not interfere with his access to the funds.

Court's Reasoning

The court relied on the doctrine of constructive receipt, which prevents taxpayers from choosing the year in which to report income merely by choosing the year in which to reduce it to possession. The court distinguished *Avery v. Commissioner*, where a binding corporate policy dictated the timing of dividend payments. In Kunze's case, the court found that the restriction on receiving the dividend check was due to Kunze's own voluntary arrangement. The court emphasized that the other stockholder received and cashed their dividend check in December, indicating that there was no corporate policy preventing Kunze from doing the same. The court stated, "It was only the petitioner's own 'volition' which thus stood between him and the receipt and collection of his check. Its availability to him, legally and actually, cannot seriously be questioned." The court also noted that withholding Kunze's check while paying the other stockholder would be a discriminatory act, which the court could not presume to be the corporation's intent.

Practical Implications

This case clarifies the boundaries of the constructive receipt doctrine. It emphasizes that a taxpayer cannot intentionally postpone receiving income to defer tax liability when the income is readily available to them. The case is particularly relevant for taxpayers who are also in control of the entity distributing the income, such as shareholders or directors of closely held corporations. This case underscores the importance of demonstrating a legitimate, non-tax-motivated reason for delaying receipt of income. Later cases have cited Kunze to distinguish situations where a taxpayer's control over the timing of income receipt is limited by genuine restrictions imposed by a third party or by the nature of the transaction itself. It serves as a reminder that the IRS scrutinizes arrangements that appear to be designed solely to manipulate the timing of income recognition.

