Charlotte Union Bus Station, Inc. v. Commissioner, 19 T.C. 336 (1952)

Rental income is calculated based on the terms of a written agreement, including subsequent amendments, and payments received as rent, including reimbursements for expenses like taxes and depreciation, are taxable income, regardless of whether they are treated as loans by the parties.

Summary

Charlotte Union Bus Station, Inc. was formed to operate a bus terminal, leasing facilities to bus companies. The initial lease agreement stipulated how rent was calculated, including expenses. A later amendment altered how income taxes were handled. The Tax Court addressed whether rental income should be calculated according to the original agreement and its amendment, whether income taxes paid by the lessees constituted taxable income to the lessor, and whether depreciation billed to the lessees was also taxable income. The court held that the original agreement, as amended, governed income calculation, that income taxes paid by lessees before the amendment were taxable income, and that depreciation billed to lessees was taxable income.

Facts

Charlotte Union Bus Station, Inc. (petitioner) was formed by three bus companies (Queen City Coach, Carolina Coach, and Smoky Mountain Stages) to operate a bus terminal. On November 26, 1940, the petitioner entered into a lease agreement with the bus companies, stipulating that the bus companies would lease the terminal facilities for 15 years and pay rent based on a prescribed formula which included the terminal's operating expenses and taxes. The petitioner reported income based on 10% of ticket sales plus miscellaneous income, less expenses. The bus companies paid the petitioner's income taxes, which were billed to them.

Procedural History

The Commissioner of Internal Revenue determined deficiencies in the petitioner's income, declared value excess-profits, and excess profits taxes for fiscal years 1945, 1946, and 1947. The Commissioner calculated the petitioner's rental income based on the original agreement until the June 14, 1945 amendment, and thereafter under the amended agreement. The petitioner appealed to the Tax Court, contesting the Commissioner's calculations.

Issue(s)

1. Whether the rental income of the petitioner should be computed under the original agreement dated November 26, 1940, as amended June 14, 1945, or on the basis of actual billings as reported by the petitioner.
2. Whether, under the original agreement, income and excess profits taxes asserted against the petitioner were payable by the lessees as rent and

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constitute additional income taxable to the petitioner.
3. Whether depreciation sustained by the petitioner and billed to the lessees as rent constitutes income taxable to the petitioner.

Holding

1. Yes, because the agreement of November 26, 1940, as amended, fixed the rights, privileges, and obligations of the parties, and the Commissioner properly computed income under its terms.
2. Yes, because based on the conduct of the parties, the agreement required the bus companies to pay the petitioner's income and excess profits taxes as part of their rent.
3. Yes, because depreciation was specifically mentioned in the agreement as an expense, and amounts billed to and paid by the bus companies constituted taxable income.

Court's Reasoning

The court reasoned that the original agreement was required to be in writing under North Carolina law as it concerned an interest in realty. As such, material modifications needed to be in writing to be effective. The court stated that "according to the weight of authority, a written contract within the statute of frauds cannot be varied by any subsequent agreement of the parties, unless such new agreement is also in writing." The amendatory agreement could not be applied retroactively. The court determined that the term

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