20 T.C. 378 (1953)

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When calculating whether a taxpayer meets the 80% threshold for long-term compensation under Internal Revenue Code Section 107, all commissions earned as a trustee, including those based on income and corpus, must be aggregated to determine ‘total compensation for personal services’.

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Summary

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W. Harold Warren, a trustee, argued that commissions received for collecting income should be treated separately from commissions received for administering the trust corpus when determining eligibility for tax relief under Section 107 of the Internal Revenue Code. The Tax Court disagreed, holding that all commissions earned in his capacity as trustee must be combined to determine if he met the 80% threshold for long-term compensation. This decision affirmed that the nature of the service provided, not the basis for the commission, dictates the calculation of ‘total compensation’.

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Facts

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W. Harold Warren served as a substituted trustee for trusts created under the will of T. Frank Appleby from January 12, 1939, to June 14, 1947.

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During his tenure, the trust corpus consisted solely of real estate.

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Warren received commissions periodically, some based on the trust’s income and others based on the corpus value.

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In 1947, Warren received $4,395.23 in commissions on income and $6,662.50 in

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commissions on corpus.

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Procedural History

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The Commissioner of Internal Revenue determined a deficiency in the Warrens' 1947 income tax, disallowing the benefits of Section 107(a) of the Internal Revenue Code for the trustee's commissions.

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The Warrens petitioned the Tax Court, contesting the Commissioner's determination.

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Issue(s)

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Whether, for the purposes of applying Section 107(a) of the Internal Revenue Code, commissions received by a trustee are severable between commissions received for collecting income and those received for administering corpus when calculating "total compensation for personal services".

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Holding

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No, because commissions are commissions regardless of whether they are based on income or corpus and they should all be included when calculating "total compensation for personal services".

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Court's Reasoning

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The Tax Court reasoned that commissions, whether based on income or corpus, represent compensation for the trustee's services to the estate.

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The court found no basis in Section 107 of the Internal Revenue Code for separating commissions into different classes for the purpose of determining eligibility for tax relief. The court stated, "Commissions are commissions whether they are paid on the collection of income or are based on corpus. Added together they represented petitioner's compensation for his services as trustee of the estate."

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The court relied on its prior decision in *Paul H. Smart, 4 T.C. 846*, which held that "total compensation for personal services" must include both income and corpus commissions. The Second Circuit affirmed the holding in *Smart v. Commissioner, 152 F.2d 333*.

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The court rejected the petitioner's argument that the *Smart* case was wrongly decided, emphasizing that the issue was the construction of a federal statute, not New Jersey state law. The court adhered to the *Smart* decision, citing its subsequent application in numerous cases.

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Practical Implications

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This decision provides clarity on how to calculate

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