***Strouss-Hirshberg Co. v. Commissioner*, 13 T.C. 306 (1949)**

A lump-sum distribution from an employee retirement plan, following a corporate reorganization, is taxable as a capital gain if the distribution is made within one taxable year and on account of the employee's separation from the service of the former employer.

Summary

The case concerns the tax treatment of lump-sum distributions from an employee retirement fund following a corporate reorganization. Employees of Strouss-Hirshberg Company, participating in a qualified retirement plan, received distributions from the plan after the company's assets were transferred to the May Company, and the original company was dissolved. The Tax Court had to determine whether these distributions were taxable as ordinary income or capital gains. The court held that the distributions were eligible for capital gains treatment because they were paid within one taxable year and were considered to be on account of the employees' separation from the service of their former employer, even though they continued working for the acquiring company.

Facts

Strouss-Hirshberg Company (the "Corporation") had an employee profit-sharing plan. The Corporation entered into a reorganization agreement with the May Company, transferring its assets and business to May Company and dissolving. Employees of the Corporation continued in the same jobs, but now as employees of the May Company. The Corporation decided to terminate its employee retirement fund after the reorganization. The plan's trustee liquidated the fund and distributed the assets to the employees in a lump sum. The IRS contended that the distributions were taxable as ordinary income, while the employees argued for capital gains treatment.

Procedural History

The case came before the U.S. Tax Court to determine the proper tax treatment of the lump-sum distributions received by the employees. The IRS argued that the distributions were taxable as ordinary income, whereas the petitioners contended that the distributions should be treated as capital gains.

Issue(s)

1. Whether the distributions received by the employees were "on account of the employee's separation from the service" of their employer, Strouss-Hirshberg Company.

Holding

1. Yes, because the Tax Court found that, despite the employees continuing to perform the same jobs after the reorganization, the distributions were considered to be “on account of” their separation from the service of their former employer.

Court’s Reasoning

The court analyzed the language of Section 165(b) of the Internal Revenue Code, which addresses the taxability of distributions from employee trusts. The key question was whether the distributions were made “on account of the employee’s separation from the service.” The court reasoned that the employees had, in fact, separated from the service of the Corporation, even if they continued working in the same jobs for the May Company. The Corporation was dissolved, and their employment relationship with the Corporation ended on a specific date. The fact that the employees received distributions within one taxable year was also important for capital gains treatment. The court distinguished this case from prior case law, noting that in the prior case, the distributions were not made in one taxable year and that the employee did not receive the same benefits upon termination of employment as they did upon termination of the plan. The court also emphasized that, while the employees could have been paid upon termination of the fund or termination of their employment, the distributions in question were made on account of the termination of their employment with the former employer.

Practical Implications

This case is significant for its clarification of the “separation from service” requirement under Section 165(b). It shows that a change of employers due to a corporate reorganization can trigger a “separation from service” even if the employee continues to perform the same job for the acquiring company. Lawyers advising clients in similar situations must carefully analyze the specific facts, including the formal separation from the original employer, the timing of distributions, and the terms of the retirement plan, to determine the appropriate tax treatment. This case supports the principle that the substance of the transaction, rather than just the form, will determine the tax consequences. The case underscores the importance of ensuring lump-sum distributions are made within a single taxable year to qualify for capital gains treatment. Later cases citing this one focus on whether an employee has sufficiently separated from service to trigger capital gains treatment of the distribution from a retirement plan.

