***Thoreson v. Commissioner*, 21 T.C. 474 (1954)**

“Back pay” for tax purposes, as defined by the Internal Revenue Code, requires remuneration that would have been paid earlier but for events like bankruptcy or receivership or other similar events. The case clarifies what constitutes a qualifying event.

Summary

This case concerns whether a payment received in 1946 constituted “back pay” attributable to the years 1932-1935, entitling the taxpayer to allocate the income over those earlier years for tax purposes. The court held that the payment was not back pay. The company’s financial difficulties during the depression did not meet the statutory requirements for an event similar to bankruptcy or receivership, nor was there evidence of an agreement or legal obligation to pay salaries during the earlier years. Therefore, the taxpayer was required to recognize the income in the year it was received, 1946.

Facts

Alfred B. Thoreson received $4,800 in 1946 from the A. O. Jostad Company, which he claimed represented “back pay” for unpaid salaries from 1932-1935. The company experienced financial difficulties during the Great Depression years. However, it was never in bankruptcy or receivership. The company’s financial status involved low cash balances, slow-moving assets, and difficulties in liquidating its inventories and receivables, though it always maintained positive current assets and surplus. There was no documented agreement for the payment of officer salaries during the years in question, and the company did not accrue officer salaries during the years in question.

Procedural History

The case was heard by the United States Tax Court. The Commissioner of Internal Revenue determined that the $4,800 received in 1946 was taxable in that year and disallowed the taxpayer’s attempt to allocate it across previous years. The Tax Court affirmed the Commissioner’s decision.

Issue(s)

1. Whether the financial condition of the A. O. Jostad Company from 1932 to 1935 constituted an event similar to bankruptcy or receivership, as defined by Section 107(d)(2)(A)(iv) of the Internal Revenue Code of 1939.

2. Whether there was an existing agreement or legal obligation to pay the claimed salaries in the years 1932-1935.

Holding

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1. No, because the company's financial condition did not meet the criteria for an event similar to bankruptcy or receivership.

2. No, because the taxpayer failed to show the existence of an employer-employee relationship or an agreement or legal obligation for compensation existed between Alfred B. Thoreson and the A. O. Jostad Company for the years 1932, 1933, 1934, and 1935.

Court's Reasoning

The court's reasoning centered on the interpretation of "back pay" as defined under Section 107(d)(2)(A)(iv) of the Internal Revenue Code, which included remuneration that would have been paid earlier but for events similar to bankruptcy or receivership. The Court stated: "To come within the scope of this section and the regulations there must have been during the years to which the taxpayer seeks to allocate the compensation an agreement or legal obligation to pay the amount received." The court found that the company's financial difficulties, while significant, did not rise to the level of bankruptcy or receivership or a similar event. The Court also noted that the minutes of the company did not reference officer salaries until 1946 and that the company did not accrue officers' salaries. Without a clear agreement or legal obligation to pay salaries during the earlier years, the court held the payment could not be considered

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