23 T.C. 527 (1954)

Unclaimed and dormant deposits in a bank that are transferred to surplus represent taxable income when the bank asserts dominion over the funds, even if the bank remains legally liable to the depositors.

Summary

The Fidelity-Philadelphia Trust Company, a national bank, transferred unclaimed and dormant deposits from its deposit liability account to its surplus account. The Commissioner of Internal Revenue determined that this transfer constituted taxable income for the bank. The U.S. Tax Court agreed, holding that the transfer of unclaimed deposits to surplus, representing the bank's assertion of control over the funds and the improbability of future claims, constituted taxable income, irrespective of state escheat laws or the bank's continued legal liability to the depositors. The Court distinguished the facts from cases where a reduction in purchase price was found.

Facts

The Fidelity-Philadelphia Trust Company (taxpayer) was organized as a national bank in 1934, taking over assets and liabilities of a predecessor bank. In 1948, the taxpayer, after unsuccessful attempts to locate depositors, transferred $6,780.64 in unclaimed, dormant deposits to its surplus account. The bank did not include this amount as income on its 1948 tax return, but the Commissioner treated it as additional income.

Procedural History

The Commissioner determined a tax deficiency. The Tax Court reviewed the case based on stipulated facts and sided with the Commissioner, ruling the unclaimed deposits were taxable income. The taxpayer did not appeal the decision.

Issue(s)

1. Whether the unclaimed and dormant deposits transferred to surplus constituted taxable income to the bank in 1948.
2. Whether Pennsylvania's escheat laws prevented the unclaimed deposits from being considered income.
3. Whether the transfer of deposits to surplus should be treated as a reduction in the purchase price of the assets of the predecessor bank, thereby preventing the transfer from being income.

Holding

1. Yes, because the transfer represented the bank's assertion of dominion over the funds, and it was unlikely the depositors would claim the funds.

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2. No, because the escheat provisions were not self-executing, and the bank had not reported the deposits to the Commonwealth, nor had escheat proceedings been started.
3. No, because the transfer was not a reduction in purchase price.

Court's Reasoning

The court cited precedent holding that unclaimed deposits could constitute income when transferred to surplus or treated as available for the bank's general use. The court emphasized that book entries marking the transfer were significant, representing the bank's assertion of dominion and the improbability of future payments. The court found it was unlikely the bank would have to honor its obligation to the depositors. The possibility of future claims and deductions did not negate income recognition when future payment appeared improbable. Regarding escheat, the court determined that the mere possibility of escheat did not prevent the funds from being income in 1948 because the bank had dominion over the funds and no escheat proceedings had been initiated. The Court distinguished this case from situations involving a reduction in purchase price, where the creditor was the party which sold the property in respect of which the reduction in purchase price was held to have occurred, and the facts here did not show such a relationship. The court referenced the practical approach to treat the deposits as income, stating, "it seems to us, therefore, looking at the question from a practical point of view as we are admonished to do [citing cases], that the petitioner in setting up its books on December 31, 1935, must have taken the practical view and elected at that time to treat as income both unclaimed deposits and unclaimed overpayments by users of quarter meters."

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