Dantree v. Commissioner, 23 T.C. 555 (1955)

Under IRC §117(k)(2), a taxpayer who disposes of timber while retaining an economic interest can treat the gain as a capital gain, and the taxpayer qualifies as an owner under Oregon law even if the taxpayer is the conditional vendee and not the legal owner.

Summary

The case concerns the proper tax treatment of profits realized from the cutting of timber. The Dantree partnership held a contract to cut timber, which it then assigned to a controlled corporation. The Commissioner of Internal Revenue argued that the profits were short-term capital gains or ordinary income. The Tax Court determined that the partnership was the "owner" of the timber under Oregon law, thus satisfying the requirements for capital gains treatment under Section 117(k)(2) of the Internal Revenue Code of 1939 because the partnership retained an economic interest in the timber. This case clarifies the definitions of "owner" and "disposal" of timber, offering insight into the application of Section 117(k)(2).

Facts

The Dantree partnership entered into a contract (the Vaughan contract) to cut timber in Oregon. The partnership subsequently contracted with its wholly-owned corporation for the corporation to cut the timber and pay the partnership a specified price per unit. The partnership considered the gain derived from this arrangement as long-term capital gains, while the Commissioner asserted that the gains were taxable as ordinary income or short-term capital gains. The Commissioner conceded that, if section 117(k)(2) applied, the gains should be treated as long-term capital gains.

Procedural History

The Commissioner of Internal Revenue assessed tax deficiencies, disallowing the partnership's treatment of the timber profits as long-term capital gains. The case was brought before the United States Tax Court.

Issue(s)

1. Whether the Dantree partnership was an "owner" of the timber, as required by IRC §117(k)(2)?

2. Whether the arrangement between the partnership and its corporation constituted a "disposal" of timber, as required by IRC §117(k)(2)?

Holding

1. Yes, because under Oregon law, the partnership held an equitable interest in the

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timber as a conditional vendee, which qualified it as an owner for the purposes of IRC §117(k)(2).

2. Yes, because the partnership retained an economic interest in the timber through its agreement with its corporation. The court found that the partnership looked to a severance of the timber for a return of its investment.

Court’s Reasoning

The court first examined whether the partnership was the “owner” of the timber. The court found that the terms of the contract and Oregon law, the partnership was the conditional vendee of the timber. Legal title was retained by the vendor to secure the performance of conditions like cutting and removing the timber and payment. The court concluded that the partnership held an equitable ownership interest sufficient to qualify as an owner of the timber. The court stated that the partnership might be said to be in the place of a mortgagor and is to be considered the owner of the property.

The court then addressed whether the arrangement between the partnership and its controlled corporation constituted a

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