***Ebner v. Commissioner*, 26 T.C. 962 (1956)**

A taxpayer constructively receives income in the year when the income is credited to their account, set apart for them, or otherwise made available so that they may draw upon it at any time, or so that they could have drawn upon it during the taxable year if notice of intention to withdraw had been given.

Summary

The case concerns whether a taxpayer, Ebner, received more than 30% of the selling price of her stock in 1947, which would have disqualified her from using the installment method for reporting the capital gains from the sale. The court addressed whether Ebner constructively received an additional $11,000 in 1947 when her son's debt to the corporation was offset against his share of the stock sale proceeds, effectively increasing her 1947 payment. The Tax Court held that the additional payment was not received until January 1948 because the agreement to offset the debt was finalized in January, not December of 1947. Therefore, Ebner could use the installment method to report her gains.

Facts

In 1947, the taxpayer, along with her children and her deceased husband's estate, sold stock back to the corporation for $50,000. The sales contract allocated $24,791.85 of the $50,000 to Ebner. The IRS contended that Ebner received an additional $11,000 because her son, Stanley Ebner, owed the corporation $11,000, which was offset against his portion of the stock sale, thereby indirectly increasing her 1947 payments. However, the evidence showed the agreement regarding the $11,000 debt was finalized on January 9, 1948, not December 30, 1947.

Procedural History

The Commissioner of Internal Revenue determined that Ebner received over 30% of the selling price in 1947, thus denying her the right to report her gains on the installment basis. Ebner petitioned the Tax Court to challenge this determination.

Issue(s)

1. Whether Ebner constructively received the $11,000 in 1947, thereby increasing her initial payments to over 30% of the stock's selling price.

Holding

1. No, because the agreement to offset the $11,000 debt was finalized on January 9, 1948, the taxpayer did not constructively receive the funds in 1947.

Court's Reasoning

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The court analyzed whether Ebner constructively received income. The court stated that a taxpayer constructively receives income in the year when the income is credited to their account, set apart for them, or otherwise made available so that they may draw upon it at any time, or so that they could have drawn upon it during the taxable year if notice of intention to withdraw had been given. The court found that the $11,000 debt offset was not finalized until January 9, 1948. Even though the corporation's book entries showed the transaction as of December 31, 1947, the court relied on the testimony of Stanley Ebner and the attorney who represented her in this transaction, along with a cancelled note and receipt, all dated January 9, 1948. They testified that the debt issue wasn't settled until January 9, 1948. Therefore, the additional payment was not received in 1947.

Practical Implications

This case emphasizes the importance of the timing of income receipt for tax purposes. It underscores that mere bookkeeping entries do not conclusively determine the tax year of income receipt. Courts will examine the substance of the transaction. For attorneys, this means meticulously gathering evidence, such as contracts, bank statements, and witness testimonies, to accurately pinpoint the year when income is received. The case highlights that the taxpayer must not only have the right to the money but also have the right to use it in that year. This case also suggests that timing can significantly affect whether a taxpayer is eligible to use installment sales treatment for tax purposes. Later cases may cite Ebner for the definition of constructive receipt and to demonstrate that courts look beyond accounting entries to determine when income is actually received for tax purposes.

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