*27 T.C. 733 (1957)*

Under the accrual method of accounting, income accrues when the right to receive it becomes fixed, and payments for the early acquisition of property rights are generally considered capital expenditures.

**Summary**

The case involves two tax issues for Thalhimer Brothers, an accrual-basis taxpayer. First, it addresses when insurance proceeds for fire damage accrued as income: the year of the fire or the year the claims were settled. The court held that income accrued in the year of settlement, as the extent of the damage and the right to payment were not fixed earlier. Second, it concerns the deductibility of a $25,000 payment made to acquire earlier possession of real estate. The court deemed this a capital expenditure, not a deductible business expense, as it increased the property's value.

**Facts**

Thalhimer Brothers, Inc., operated a department store on an accrual basis with a fiscal year ending January 31. In January 1946, a fire occurred in the store, resulting in property damage and business interruption. The extent of the damage was initially uncertain and subject to ongoing assessment. A dispute arose with the insurance companies regarding subrogation rights, which was resolved in November 1946. Insurance payments were received at that time. Thalhimer also contracted to purchase real estate. To obtain possession earlier than the contract specified, it paid an additional $25,000.

**Procedural History**

The Commissioner of Internal Revenue determined deficiencies in Thalhimer's income and excess profits taxes, disallowing certain deductions. The Tax Court reviewed the Commissioner's decision regarding the accrual of insurance proceeds and the deductibility of the real estate payment. The case came before the U.S. Tax Court after the Commissioner determined tax deficiencies. The Tax Court held in favor of the taxpayer on the insurance proceeds issue and in favor of the Commissioner on the real estate payment issue.

**Issue(s)**

1. Whether the income from insurance proceeds accrued in the fiscal year of the fire or the fiscal year when the amounts were agreed upon and paid.

2. Whether the $25,000 payment to acquire early possession of real estate was deductible as a business expense or should be considered a capital expenditure.

**Holding**

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1. No, because the right to receive the insurance proceeds was not fixed until the damage was determined and the subrogation dispute was resolved.

2. No, because the payment was made to acquire a property right, increasing the value of the property.

**Court’s Reasoning**

Regarding the insurance proceeds, the court applied the accrual accounting principle that income accrues when the right to receive it is fixed. The court found that the extent of damage from the fire, especially water damage, was not immediately ascertainable. Additionally, a genuine dispute over the insurance policies, specifically subrogation rights, further delayed the fixing of the right to receive payment until the dispute was resolved. Therefore, the income was recognized in the later fiscal year. Concerning the real estate payment, the court reasoned that the payment was for the acquisition of a property right—early possession. The court cited a previous case, stating that such payments are considered an

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