Triboro Coach Corp. v. Commissioner, 29 T.C. 613 (1958)

An accrual-basis taxpayer must recognize income when the right to receive it becomes fixed and certain, not when it is merely anticipated, but under the abnormal income provisions of the Internal Revenue Code, income from a claim may be treated differently for excess profits tax purposes.

Summary

Triboro Coach Corporation, an accrual-basis taxpayer, received additional compensation in 1952 from the City of New York for providing combination-fare services. The IRS determined this income was taxable in 1952. Triboro argued that it should have been accrued in the earlier years (1949 and 1950) when the service was provided. The Tax Court agreed with the IRS on the accrual issue. However, Triboro also argued that the income was "abnormal income" for excess profits tax purposes. The court found the income, derived from a claim for additional compensation, was indeed abnormal and attributable to the earlier years, thus affecting the excess profits tax liability. This case highlights the distinction between income recognition for general tax purposes and the treatment of specific income categories under the abnormal income provisions of the tax code.

Facts

Triboro Coach Corporation operated buses in New York City under contract with the City. From 1948 to 1952, Triboro provided combination rides with the City's subway lines, selling tickets and collecting fares. Triboro initially received a service charge which was deemed insufficient to cover its costs. Triboro sought an increase in the service charge but did not get a formal approval until 1951. In 1951 the City agreed to compensate Triboro by allowing it an extra cent per combination fare, which was credited to Triboro in the fiscal year ending June 30, 1952. Triboro filed amended returns for 1949 and 1950, allocating this income to those years. The Commissioner of Internal Revenue determined the income was includible in gross income for the fiscal year ending June 30, 1952.

Procedural History

The Commissioner of Internal Revenue determined a tax deficiency against Triboro for the fiscal year ending June 30, 1952. Triboro challenged this determination in the United States Tax Court, arguing the income should have been accrued in the earlier years of 1949 and 1950. Triboro also claimed that even if the income was taxable in 1952, it constituted abnormal income for excess profits tax purposes. The Tax Court ruled in favor of the Commissioner on the initial accrual question but sided with Triboro on the abnormal income argument.

Issue(s)

1. Whether an accrual-basis taxpayer should include the income in the gross

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income for the year the payment was received or for the prior years when the service was provided?
2. Whether, if the income is includible in gross income for the taxable year, it qualifies as "abnormal income" within the provisions of section 456 of the Internal Revenue Code of 1939 for excess profits tax purposes?

Holding

1. No, because the right to receive payment was not fixed and certain until 1951, the income was properly included in gross income for the fiscal year ending June 30, 1952.
2. Yes, because the additional compensation constituted "abnormal income" under section 456 of the Internal Revenue Code of 1939, and was attributable to the fiscal years 1949 and 1950.

Court's Reasoning

The court determined that Triboro could not accrue the income in 1949 and 1950 because, as an accrual-basis taxpayer, income is recognized when the right to receive it becomes fixed and certain. The court cited several cases (Continental Tie & Lumber Co. v. United States, and United States v. Safety Car Heating & Lighting Co.) and reasoned that the oral agreement about raising the service charge and the offer made by the City were not sufficient to establish a legal obligation. The court held that Triboro did not have a right to receive the money until June 1951, when the City agreed to allow the extra cent per rider, so the income was properly included in gross income for the fiscal year 1952, when the income was received as a credit. The court emphasized, "Where an item depends upon a contingency or future events, it may not be accrued until the contingency or events have occurred and fixed with reasonable certainty the fact and amount of the liability."

Regarding the "abnormal income" claim, the court found that there was a "claim," as the court stated that "Triboro was pressing a request for an increased allowance." The First Deputy Comptroller's statement that the arrangement was intended to compensate Triboro for past services was key. The court found that this income was abnormal for Triboro and attributable to the years when the service was provided.

Practical Implications

This case clarifies that an accrual-basis taxpayer recognizes income when the right to it is established, not when services are provided or expenses are incurred. It underscores the importance of having a legally binding agreement or established right to receive income before accruing it. For instance, the case suggests that any rate increase sought by a utility or any similar party would need to be formally approved by the relevant authority, which is the City in the instant case, before the income can be accrued. Furthermore, the case explains that the definition of

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abnormal income for excess profits tax purposes may change depending upon the nature of the income and the intent of the parties. Moreover, it provides guidance on establishing the income that is derived out of a “claim”, and the importance of substantiating that claim and the amount. Legal professionals should carefully analyze the specific facts and circumstances of each case to determine when a right to income has been established, especially where the income depends on the outcome of negotiations or governmental approvals. This case also highlights the importance of the regulations and how they can influence the determination of whether or not income is deemed abnormal.

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