UNITED STATES BOARD OF TAX APPEALS

Texas Coca-Cola Bottling Co. v. Commissioner

30 B.T.A. 736 (1934) · No. 54177 · Decided May 16, 1934

SUMMARY

The United States Board of Tax Appeals considered whether a corporation could deduct state and local real estate taxes paid in 1928 on property acquired from partnerships on March 1, 1928. Applying Texas law, the Board held that liability for the taxes accrued based on ownership as of January 1, 1928, before the corporation acquired the property. The taxes therefore became part of the corporation's cost basis in the property and were not deductible under section 23 of the Revenue Act of 1928; the deficiency determination was affirmed.

CASE DETAILS

COURT	United States Board of Tax Appeals
WRITING FOR THE COURT	Adams
JURISDICTION	USA
DECIDED	May 16, 1934
DOCKET	54177
DISPOSITION	affirmed
PROCEDURAL POSTURE	Petition for review of the Commissioner's determination of a $541.13 income-tax deficiency after disallowance of a deduction for state and local real-estate taxes paid by the petitioner.
STANDARD OF REVIEW	De novo review of the legal issue concerning the deductibility of the taxes; the material facts were stipulated.
PRECEDENTIAL VALUE	published opinion of the United States Board of Tax Appeals
PARTIES	Texas Coca-Cola Bottling Company v. Commissioner of Internal Revenue

TOPICS

income tax · tax deductions · property tax · tax basis · tax deficiency

PRACTICE AREAS

federal income taxation · property taxation · tax accounting

QUESTIONS PRESENTED

1. Whether a corporation that acquired Texas real property on March 1, 1928, could deduct as an ordinary and necessary business expense the 1928 state and local property taxes it paid on that property.

HOLDINGS

1. The corporation could not deduct the $3,859.26 payment as an ordinary and necessary business expense because the taxes had accrued and become a lien based on ownership of the property on January 1, 1928, before the corporation acquired the property. The payment became part of the corporation's cost of the property.

KEY QUOTATIONS

> "*We hold that the taxes in question accrued and became a lien on the property conveyed to the petitioner on January 1, 1928, and that petitioner, having acquired the property on March 1 of that year, took it subject to the tax lien, and that the expenditure for the payment of such taxes became a part of the cost of the property to petitioner and is, therefore, not deductible under the Statute.*" (30 B.T.A. at 740)

FACTUAL BACKGROUND

Texas Coca-Cola Bottling Company was organized on March 1, 1928, through the incorporation of four existing partnerships and acquired their real and personal property, including real estate. The partnerships owned the real estate on January 1, 1928, while the corporation acquired it on March 1, 1928, and used it in its business for the remainder of the year. The corporation paid $3,859.26 in city, school, state, and county real-estate taxes for 1928 during November and December and claimed the payment as an income-tax deduction.

PROCEDURAL HISTORY

The Commissioner determined an income-tax deficiency against the petitioner for the period March 1 through December 31, 1928. The petitioner challenged the disallowance of $3,859.26 in city, school, state, and county real-estate taxes paid during 1928. The parties stipulated the material facts, and the Board affirmed the Commissioner's determination and ordered judgment for the respondent.

DISPOSITION

affirmed

CASES CITED

- Western Maryland Ry. Co. v. Commissioner, 33 F.2d 695
- Paradox Land & Transport Co., 23 B.T.A. 1229
- Charles R. Holden, 27 B.T.A. 530
- First Bond & Mortgage Co., 27 B.T.A. 430
- Benjamin I. Powell, 26 B.T.A. 509
- National Casket Co., 29 B.T.A. 139

- Winters v. Independent School District of Evant, 208 S.W. 574
- United States v. Anderson, United States v. Anderson, 269 U.S. 422, 422-433
- Grand Hotel Co., 21 B.T.A. 890
- Leamington Hotel Co., 26 B.T.A. 1004
