

STATE OF DELAWARE
DEPARTMENT OF FINANCE
DIVISION OF REVENUE
601 DELAWARE AVENUE
WILMINGTON, DELAWARE 19899

TAX NEWSGRAM 72-2

January 17, 1972

TAX APPEAL BOARD DECISION

PERSONAL INCOME TAX

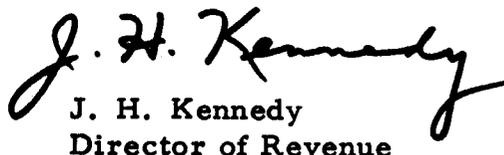
Taxpayers had received debentures for stock due to a reorganization and reported the transaction as a non-taxable exchange.

The question was whether debentures received by Petitioners were "securities" and whether the exchange was one of the type embraced by the provisions of 30 Del. C., Section 1146 (a) (3). It was necessary to decide whether the tax-free status is restricted to the exchange of stock for stock and to exchanges of securities for securities, or whether it also grants deferred recognition of gain in cases in which stock is exchanged for securities, or vice ver a.

It was the opinion of the Tax Appeal Board that the type of debentures involved in the transaction were properly classed as "securities". This question had not been resolved in the Delaware Courts or by administrative pronouncement. The Delaware Code uses the same wording as Section 112 (b) (3) of the Internal Revenue Code of 1939 and by Regulations Internal Revenue held that the above type of transaction was a non-taxable exchange. Although the Internal Revenue Code of 1954 changed this provision no change was made to 30 Del. C., Section 1146.

DECISION: For Petitioner. It was held that the exchange in question falls under the provision of 30 Del. C., Section 1146 (a) (3) and no gain or loss is to be recognized at the time of this transaction. It is agreed that the gain or the transaction will be reported at a later date.

Docket Nos. 422, 423 and 424


J. H. Kennedy
Director of Revenue

jvm

DISTRIBUTION: B and C