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# More Authority On Amortization of Bank Core Deposits

The recent cases of *Citizens & Southern Corp. v. Commissioner*, 91 T.C. 463 (1988), and *IT&S of Iowa, Inc. v. Commissioner*, 91 T.C. 496 (1991), established that bank core deposits could be amortizable rather than being lumped into the undesirable category of goodwill. Now, yet another Tax Court decision, *Peoples Bankcorporation v. Commissioner*, T.C. Memo 1992-285 (1992), has held that core deposits are amortizable.

## Core Deposit Loaded Acquisitions

Peoples Bank and Trust Company ("Peoples") agreed to purchase from North Carolina National Bank ("NCNB") several NCNB branches for \$6,175,000, of which \$4,820,000 was allocated to core deposits. Several years later, Peoples acquired County Bank and Trust Company (County Bank) for \$1,320,000, of which \$672,636 was allocated to core deposits. In each acquisition, for both regulatory and financial statement purposes, the amounts allocated to core deposits were amortized over a ten-year life using the straight-line method.

Predictably, the Service disallowed the deductions for amortization of the core deposit intangibles. The Service argued that the deposits were inseparable from goodwill and were part of the banks' going-concern value. According to the Service, the banks failed to establish a limited life and value with reasonable accuracy.

Equally predictably, Bankcorp and Peoples argued that the acquired core deposits were amortizable because they were separate from goodwill, a reasonable estimate of their value and useful life had been established, and the amortization method used was reasonable.

## Tax Court Compromise

The Tax Court noted that adjustable rate deposit accounts, such as certificates of deposit, money market deposit accounts, and super NOW accounts were not to be treated as core deposits absent proof that such accounts are insensitive to interest rate changes. The Tax Court determined that Bankcorp and Peoples failed to show that any such accounts they acquired were insensitive to interest rate changes. However, on the threshold question whether amortization of core deposits was appropriate at all, the Tax Court came down squarely on the side of the taxpayers.

Moreover, the Tax Court determined that the two banks had shown a useful life for the core deposit intangibles of 18 to 20 years with a reasonable degree of accuracy. In fact, that court criticized the Service for failing to develop a secondary position regarding the proper value of the core deposit intangible (given the holding in *Citizens & Southern*). The court accepted the taxpayers' notion that the cost savings method was appropriate to calculate the value of the core deposits.

Given the Tax Court's admonishment of the Service for failing to even consider valuation of core deposits, it is hard to say what will happen in future core deposit cases. Given the hungry bank and savings and loan acquisitions of the 1980s and the 1990s thus far, a fairly large pot of dollars is at stake in these cases. ■

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