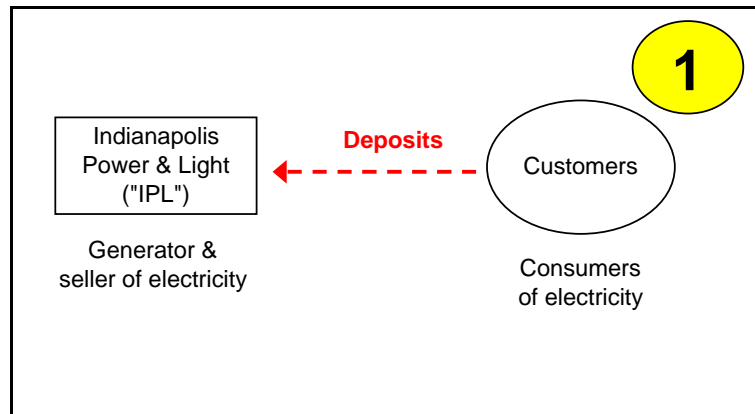


**Commissioner v. Indianapolis  
Power & Light  
493 U.S. 203 (1990)**

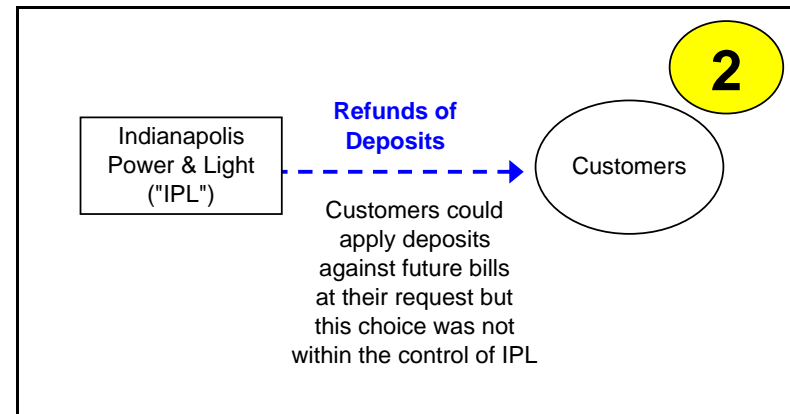
**Customer Deposits Were  
Not Advance Payments**

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**Deposits**



**Refunds**



Indianapolis Power & Light Company (IPL) requires certain customers to make deposits with it to assure payment of future bills for electric service. The IRS contended that the deposits were advance payments for electricity and therefore constituted taxable income to IPL upon receipt.

Receipt of a loan is not income to the borrower because of the repayment obligation. The economic benefit of a loan consists of the opportunity to earn income on the use of the money prior to the time the loan must be repaid. The recipient of an advance payment, in contrast, gains both immediate use of the money and the opportunity to make a profit by providing goods or services at a cost lower than the amount of the payment. The issue turns upon the nature of the rights and obligations that IPL assumed when the deposits were made.

IPL did not enjoy "complete dominion" over the customer deposits. Rather, the deposits were acquired subject to an express "obligation to repay," either at the time service was terminated or at the time a customer established good credit. So long as the customer fulfilled his legal obligation to make timely payments, his deposit ultimately was to be refunded, and both the timing and method of that refund were largely within the control of the customer.

In determining whether a taxpayer enjoys "complete dominion" over a given sum, the crucial point is not whether his use of the funds is unconstrained during some interim period. The key is whether the taxpayer has some guarantee that he will be allowed to keep the money. IPL's receipt of the deposits was accompanied by no such guarantee. An advance payment, like IPL's deposits, admittedly protects against collection risk, but an advance payment protects against the risk that the purchaser will back out of the deal before the seller performs. IPL's right to retain the money is contingent upon events outside its control. The Court held that the dominion IPL had over the customer deposits was insufficient for the deposits to qualify as taxable income at the time they were made.

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