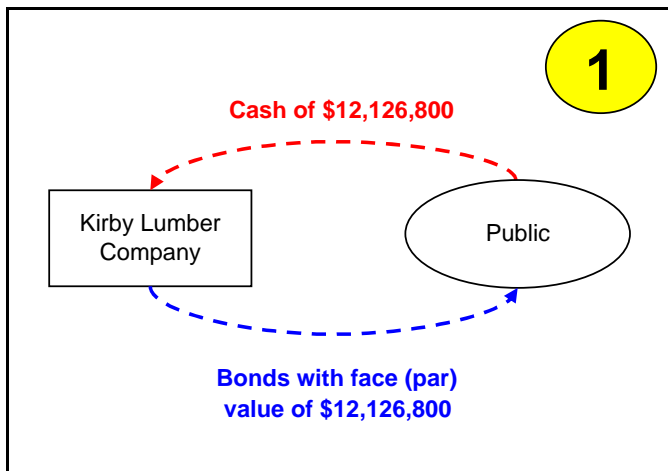


**United States v. Kirby Lumber Co.
284 U.S. 1 (1931)**

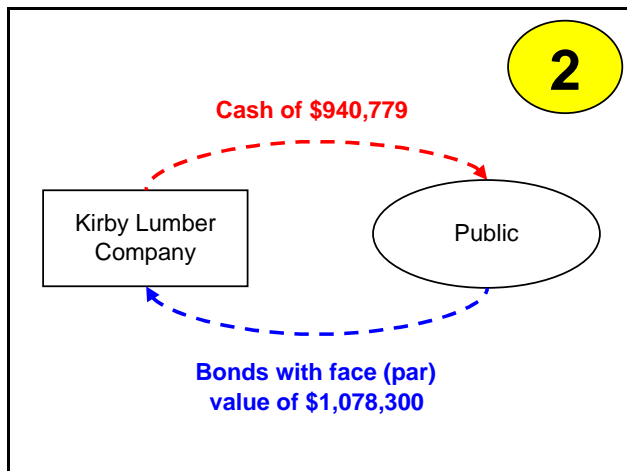
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Gain on Bond Retirement

Bond Issuance (July 1923)



Bond Re-Purchases (During 1923)



Calculation of Gain

| | |
|-------------------------|------------------|
| Original Issue Price | \$1,078,300 |
| Less: Re-Purchase Price | - \$940,779 |
| Gain on bond retirement | <u>\$137,521</u> |

In Kirby Lumber, the Supreme Court stated:

In July, 1923 the plaintiff, the Kirby Lumber Company, issued its own bonds for \$12,126,800 for which it received their par value. Later in the same year it purchased in the open market some of the same bonds at less than par, the difference of price being, \$137,521.30. The question is whether this difference is a taxable gain or income of the plaintiff for the year 1923. By the Revenue Act of . . . 1921 . . . gross income includes "gains or profits and income derived from any source whatever," and by the Treasury Regulations . . . "if the corporation purchases and retires any of such bonds at a price less than the issuing price or face value, the excess of the issuing price or face value over the purchase price is gain or income for the taxable year." . . . We see no reason why the Regulations should not be accepted as a correct statement of the law.

. . . Here . . . the taxpayer made a clear gain. As a result of its dealings it made available \$137,521.30 assets previously offset by the obligation of bonds now extinct. . . The [taxpayer] has realized within the year an accession to income, if we take words in their plain popular meaning, as they should be taken here. . . .