1 T.C. 244 (1942)

A bank cannot deduct a debt charged off pursuant to a bank examiner's order under the pre-1942 regulations if it has not independently ascertained the debt to be worthless, and the relevant Treasury Regulation has been abrogated by the 1942 amendment to Section 23(k) of the Internal Revenue Code.

Summary

Central National Bank sought to deduct $200,001 from its 1939 gross income, representing a portion of a loan to its subsidiary that it charged off following a bank examiner's order. The loan was used by the subsidiary to repurchase its own stock from the bank. The Tax Court denied the deduction. It ruled that the bank had not independently ascertained the debt's worthlessness. Moreover, the court held that the relevant Treasury Regulation allowing for a conclusive presumption of worthlessness based solely on a bank examiner's order had been superseded by the 1942 amendment to Section 23(k) of the Internal Revenue Code. The court reasoned that the amendment required an actual determination of worthlessness for a debt to be deductible.

Facts

Central National Bank of Richmond (the petitioner) owned all the stock of the Central National Bank Building Corporation (the building corporation). In 1939, the petitioner loaned $600,000 to the building corporation, which the building corporation used to repurchase 6,000 shares of its stock from the petitioner. The building corporation gave the petitioner a demand note for $600,000, with interest payable only if earned and subordinated to all other debts. Following a bank examiner's order, the petitioner charged off $200,000 of the building corporation's debt in 1939, claiming it as a deduction on its income tax return.

Procedural History

The Commissioner of Internal Revenue disallowed the $200,001 deduction. Central National Bank petitioned the Tax Court for redetermination of the deficiency.

Issue(s)

Whether the petitioner is entitled to deduct from its gross income for 1939 the $200,001 representing the claimed indebtedness of the building corporation, which was charged off on its books of account pursuant to a bank examiner's order.

Holding

No, because the petitioner did not ascertain the worthlessness of the debt within the taxable year, and the applicable Treasury Regulation has been effectively abrogated by the amendment to Section 23(k) of the Internal Revenue Code.

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Court’s Reasoning

The court reasoned that under Section 23(k) of the Revenue Act of 1938, deductions for bad debts were permitted only when the debts were

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