2 T.C. 917 (1943)

A corporate liquidation can be considered "complete" for tax purposes under Section 115(c) of the Revenue Act of 1936, even if the original plan is amended to include a reorganization, provided the ultimate outcome is the complete cancellation or redemption of all stock within the statutory two-year period and the initial intent for complete liquidation remains.

Summary

In *Alexander v. Commissioner*, the Tax Court addressed whether a corporate distribution qualified as part of a "complete liquidation" under the Revenue Act of 1936 when the liquidation plan was modified to include a reorganization mid-execution. Alexander-Yawkey Timber Co. (Timber Co.) initially planned a simple in-kind distribution to liquidate within two years. However, due to unforeseen market changes, a reorganization with Alexander-Yawkey Lumber Co. (Lumber Co.) was implemented to complete the liquidation. The Tax Court held that despite this change in method, the original intent for complete liquidation was maintained and the liquidation was completed within the statutory two-year timeframe. Therefore, the 1937 distribution was part of a complete liquidation, taxable as capital gains, not ordinary income as partial liquidation. The court emphasized that the ultimate outcome—complete liquidation within the statutory period—fulfilled the requirements of Section 115(c), regardless of the intervening reorganization.

Facts

In 1937, Alexander-Yawkey Timber Co. (Timber Co.) adopted a plan to completely liquidate within two years, as prescribed by Section 115(c) of the Revenue Act of 1936. As part of this plan, Timber Co. distributed timberlands in Crook and Jefferson Counties, Oregon, in kind to its stockholders, including Petitioner J.S. Alexander. Alexander reported the gain from this distribution as capital gain. Subsequently, due to unforeseen market changes making its remaining timberlands in Lane and Coos Counties more valuable, Timber Co. amended its liquidation plan in 1939. Instead of distributing these remaining assets in kind, Timber Co. reorganized with Alexander-Yawkey Lumber Co. (Lumber Co.). Timber Co. transferred its remaining assets to Lumber Co. in exchange for Lumber Co. stock. This stock was then distributed to Timber Co.'s stockholders in exchange for their Timber Co. stock, which was canceled. Timber Co. was formally dissolved within the statutory two-year period from the initial liquidation plan.

Procedural History

The Commissioner of Internal Revenue determined a deficiency in Petitioner Alexander's 1937 income tax, arguing that the 1937 distribution was a partial liquidation, taxable at 100% of the gain, rather than a distribution in complete liquidation eligible for capital gains treatment. Petitioner Alexander appealed this

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determination to the United States Tax Court, arguing that the 1937 distribution was part of a series of distributions in complete liquidation.

Issue(s)

1. Whether the distribution received by Petitioner in 1937 from Alexander-Yawkey Timber Co. was a distribution in complete liquidation or partial liquidation under Section 115(c) of the Revenue Act of 1936, given that the original plan of liquidation was amended to include a reorganization to complete the liquidation process.

Holding

1. Yes. The Tax Court held that the 1937 distribution was part of a series of distributions in *complete* liquidation, not partial liquidation, because the Timber Co. did, in fact, completely liquidate within the statutory two-year period, even though the method of liquidation evolved to include a reorganization.

Court's Reasoning

The Tax Court reasoned that Section 115(c) of the Revenue Act of 1936 defines "complete liquidation" to include a series of distributions made in complete cancellation or redemption of all stock within a two-year period under a bona fide plan. The court acknowledged that the Timber Co.'s initial plan in 1937 was a bona fide plan for complete liquidation within this timeframe. The court emphasized that the subsequent reorganization in 1939, while altering the method of liquidation, did not negate the ultimate fact that the Timber Co. was completely liquidated and dissolved within the statutory period. The court stated, "That complete liquidation of the Timber Co. did actually take place within the two-year statutory period, albeit the latter part of it may have been in pursuance of a plan of statutory reorganization, seems clear." Furthermore, the court pointed out that Section 115(c) itself contemplates that a complete liquidation can occur in the context of a reorganization, as it refers to Section 112, which governs the recognition of gain or loss in reorganizations and liquidations. The court distinguished the present case from situations where a corporation abandons its liquidation plan and continues as a going concern. In *Alexander*, the Timber Co. unequivocally liquidated and dissolved within the statutory period, fulfilling the requirements of Section 115(c), regardless of the mid-plan reorganization.

Practical Implications

Alexander v. Commissioner provides important clarification on the definition of "complete liquidation" under tax law. It establishes that a change in the method of liquidation, such as incorporating a reorganization, does not automatically disqualify a distribution from being considered part of a complete liquidation, provided that

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the corporation genuinely liquidates and dissolves within the statutory two-year period from the initial plan. This case offers flexibility in corporate liquidation planning, acknowledging that unforeseen circumstances may necessitate modifications to the original liquidation strategy. Legal practitioners can rely on *Alexander* to argue that as long as the ultimate goal is complete liquidation within the statutory timeframe, and the initial intent for complete liquidation is demonstrable, distributions made under such plans can qualify for complete liquidation treatment, even if a reorganization is used to achieve that final liquidation. This decision underscores the importance of adhering to the statutory timeframe and demonstrating a consistent intent to achieve complete liquidation, even if the specific steps evolve over time.

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