3 T.C. 308 (1944)

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Section 24(b) of the Internal Revenue Code disallows deductions for losses from sales of property between family members, irrespective of the type of property sold, and this is not limited to sales of stock.

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Summary

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Lewis L. Fawcett sold real estate and a mortgage to his brother and claimed a long-term capital loss deduction. The Commissioner disallowed the deduction, citing Section 24(b) of the Internal Revenue Code, which prohibits deducting losses from sales between family members. Fawcett argued that the prohibition only applies to sales of stock because the heading of paragraph (2) refers to stock ownership. The Tax Court disagreed, holding that the statute's plain language disallows deductions for losses from sales of any type of property between family members.

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Facts

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Lewis L. Fawcett sold real estate to his brother, John C. Fawcett, for $1,000 on December 26, 1940. Fawcett had purchased the real estate in 1927 for $3,000.r
On the same date, Fawcett also sold a mortgage to his brother for $5,000. He had purchased the mortgage on June 1, 1938, for $10,000.r
Fawcett reported these sales as long-term capital losses on his 1940 income tax return and claimed a deduction for the losses.r

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Procedural History

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The Commissioner of Internal Revenue determined a deficiency in Fawcett's income tax for 1940, disallowing the claimed deduction for long-term capital losses.r
Fawcett petitioned the Tax Court, contesting the Commissioner's determination.r
The case was submitted to the Tax Court on stipulated facts under Rule 30.r

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Issue(s)

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Whether Section 24(b)(1)(A) of the Internal Revenue Code, which disallows deductions for losses from sales of property between family members, applies only to sales of stock or to sales of any type of property.r

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Holding

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No, because the broad reference to "property" in paragraph (1) of Section 24(b) is not limited by anything in paragraph (2). The statute prohibits deduction for losses from sales of any type of property between family members, not just stock.r

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Court's Reasoning

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The court focused on the plain language of Section 24(b)(1)(A), which states that

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