4 T.C. 925 (1945)

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A loss deduction for abandonment of a project is allowed in the tax year in which the decision to abandon the project is made and the potential value of the preparatory work is destroyed, not necessarily when an initial permit or license is canceled.

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Summary

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Empire District Electric Co. sought a deduction for a loss incurred from abandoning a hydroelectric power plant project. The company had expended funds on surveys and engineering work. The Tax Court held that the loss was sustained in 1936, the year the company's board decided to abandon the project due to unfavorable government actions, rather than in 1935 when the Federal Power Commission canceled the company's license. The court reasoned that the license cancellation was not a definitive event, as the company could have applied for a new license later. The critical event was the internal decision to abandon the project, rendering the preparatory work worthless.

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Facts

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Empire District Electric Co. planned to construct a hydroelectric plant at Table Rock, Missouri, and obtained a preliminary permit from the Federal Power Commission in 1923. The company applied for a license in 1925, but the license issuance was delayed. The Great Depression impacted the company's electricity sales. In June 1932, the company accepted a major license with construction deadlines. Unable to meet the deadlines, the company's applications for extensions were denied, and the Federal Power Commission terminated the license on July 16, 1935. However, in 1936, several events, including the TVA decision and the Flood Control Act of 1936, led the company's management to conclude that obtaining a new license was unlikely due to potential government involvement in the project. On December 22, 1936, the board of directors resolved to abandon the Table Rock project and write off the development costs.

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Procedural History

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The Commissioner of Internal Revenue determined a deficiency in Empire District Electric Co.’s income tax for 1936, disallowing a deduction claimed for the abandonment loss. Empire District Electric Co. contested the disallowance in the Tax Court.

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Issue(s)

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Whether the loss from the abandonment of the electric power development project was sustained in 1935, when the Federal Power Commission canceled the company’s license, or in 1936, when the company’s board of directors decided to abandon the project.

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Holding

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No, the loss was sustained in 1936 because that was the year the company decided to abandon the project, rendering the preparatory work worthless.

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Court’s Reasoning

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The Tax Court emphasized a

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