5 T.C. 303 (1945)

When a corporation acquires its own stock with the clear intent to redeem it as part of a pre-determined plan, the transaction is treated as a distribution in partial liquidation under Section 115(c) of the Internal Revenue Code, resulting in capital gains tax treatment for the shareholder.

Summary

Gladys Blum challenged the Commissioner's determination that gains from the disposition of her corporate stock should be taxed as distributions in partial liquidation rather than as gains from the sale of capital assets. The key issue was whether the corporation's acquisition of its stock constituted a redemption, triggering Section 115(c) of the Internal Revenue Code, or a purchase for treasury stock. The Tax Court sided with the Commissioner, holding that the corporation's intent was to redeem a specific class of stock according to a recapitalization plan, making the gains taxable as short-term capital gains.

Facts

Robert Cohen, a shareholder in Foley Brothers Dry Goods Co., entered into an agreement with his son, George Cohen, another shareholder, to guarantee a fixed income for himself and his wife from his shares. The agreement obligated George to purchase Robert's shares upon his death. After Robert's death, his widow, Agnes Cohen, gifted a portion of these shares to her daughter, Gladys Blum (the petitioner). Subsequently, the corporation assumed George's obligations under the original agreement. The corporation recapitalized, creating three classes of stock, including a "First 6% Preferred Capital Stock" to be exchanged for the shares previously subject to the agreement, with a provision for mandatory redemption.

Procedural History

The Commissioner of Internal Revenue determined deficiencies in Blum's income tax for 1939, 1940, and 1941, arguing that the gains from the stock disposition constituted distributions in partial liquidation. Blum contested this determination in the United States Tax Court.

Issue(s)

Whether the amounts received by the petitioner from the corporation in each of the taxable years constituted distributions in partial liquidation within the meaning of Section 115(c) of the Internal Revenue Code, or whether the amounts were received through a purchase of the stock by the corporation.

Holding

Yes, the amounts received by the petitioner constituted distributions in partial

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liquidation, because the corporation intended to redeem the specific class of stock according to the recapitalization plan, as evidenced by the terms of the stock certificates and corporate resolutions.

Court’s Reasoning

The Tax Court emphasized that the controlling factor in determining whether a partial liquidation has taken place is the intent of the corporation in reacquiring its stock. If the stock is purchased to be canceled and retired, the seller receives a distribution in partial liquidation. The court found that the

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