6 T.C. 177 (1946)

A taxpayer can deduct a loss on stock in the year they surrender it for cancellation and receive final payment in a corporate liquidation, even if contingent events occur in later years.

Summary

Charles Dana surrendered his stock in Indian Territory Illuminating Oil Co. (Indian) in 1941 as part of a liquidation plan, receiving 65 cents per share. He claimed a capital loss for that year. The Commissioner denied the loss, arguing the liquidation wasn't complete because some stockholders pursued an appraisal and derivative suits continued. The Tax Court held that Dana properly deducted the loss in 1941 because, as to him, the liquidation transaction was closed when he surrendered his stock and received final payment, irrespective of later contingent events affecting other shareholders.

Facts

Dana owned 4,600 shares of Indian stock, acquired in 1930 and 1932. In July 1941, Indian adopted a plan of liquidation, transferring all assets to Cities Service Oil Co. in exchange for Cities Service's Indian stock and payment of 65 cents per share to remaining shareholders. Dana surrendered his stock on December 29, 1941, receiving 65 cents per share. Some stockholders dissented and sought appraisal under New Jersey law, eventually receiving 75 cents per share. Derivative suits existed against Indian. Dana wasn't involved in the appraisal or suits.

Procedural History

Dana claimed a capital loss on his 1941 tax return. The Commissioner of Internal Revenue denied the loss, arguing the liquidation was not complete in 1941. Dana petitioned the Tax Court, contesting the deficiency assessment.

Issue(s)

1. Whether Dana sustained a deductible loss in 1941 when he surrendered his Indian stock for cancellation and received 65 cents per share in a corporate liquidation, despite subsequent appraisal proceedings by dissenting shareholders and ongoing derivative suits.

Holding

1. Yes, because Dana's transaction was closed and completed in 1941 when he surrendered his stock and received payment, and later events related to dissenting shareholders and derivative suits did not alter the fact that his liquidation was effectively complete.

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Court’s Reasoning

The Tax Court distinguished Dresser v. United States, where the liquidation wasn’t closed because tangible assets hadn’t been converted to cash and intangible asset values were undetermined. Here, Dana received a definite payment for his shares. The court found Beekman Winthrop more applicable, where a loss was allowed when stock was surrendered and a liquidating distribution was received, even with a later final distribution. The court stated, “That transaction — in so far as it concerned petitioner — was closed and completed on December 29, 1941, when he surrendered his Indian stock for cancellation and received in exchange therefor 65 cents per share.” The court noted that while shareholder derivative actions may have constituted an asset, their value was comparable to similar suits in Boehm v. Commissioner, <span normalizedcite="326 U.S. 287“>326 U.S. 287, and did not postpone the fact of the loss.

Practical Implications

This case provides guidance on determining the year in which a loss from a corporate liquidation can be deducted for tax purposes. It emphasizes that the key factor is whether the transaction was closed as to the specific taxpayer, meaning they surrendered their stock and received final payment. Later events, such as appraisal proceedings by dissenting shareholders or settlements in derivative lawsuits, generally do not affect the timing of the loss deduction for taxpayers who completed their part of the liquidation in an earlier year. It reinforces the “practical test” for determining when losses are sustained, focusing on the taxpayer’s specific circumstances rather than the overall status of the liquidation.

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