T.C. Memo. 1943-230

A loss is deductible for tax purposes only in the year it is sustained, evidenced by a closed and completed transaction fixed by an identifiable event; this determination is based on a practical assessment of the facts, not merely a legal formality.

Summary

The petitioner, a beneficiary of a trust, sought to deduct a capital loss in 1940 related to his investment in the trust. The trust had distributed most of its assets in 1936, retaining only a small amount tied up in a closed bank and uncollected rents. The petitioner argued that the loss was sustained in 1940 when he assigned his interest in the trust. The Tax Court, however, found that while the exact amount of the loss was uncertain prior to 1940, the identifiable event fixing the loss occurred in 1940 when the final distribution was made, thus allowing the deduction in that year.

Facts

The petitioner invested $17,000 in a trust. By April 1, 1936, the trust's assets totaled $27,016.21. In June 1936, the trust distributed $25,432.27, with the petitioner receiving $3,422.51. The remaining assets of the trust at that time consisted of $427.68 impounded in a closed bank and $1,092.76 held by Bankers Trust Co., along with $63.50 in uncollected rents. In November 1940, the petitioner received $213.15 as his share of the final dividend from the bank receiver. In December 1940, the petitioner assigned his interest in the trust to Bankers Trust Co.

Procedural History

The Commissioner disallowed the petitioner's deduction of $6,682.17, representing the claimed capital loss. The petitioner then brought the case before the Tax Court, contesting the Commissioner's decision.

Issue(s)

Whether the long-term capital loss claimed by the petitioner was sustained in the tax year 1940, based on the identifiable event of the final distribution and subsequent assignment of the trust interest.

Holding

Yes, because the identifiable event that fixed the loss occurred in 1940 when the final distribution was made and the petitioner assigned his interest in the trust, making the loss deductible in that year.

Court's Reasoning

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The court reasoned that a loss must be evidenced by a closed and completed transaction fixed by an identifiable event, citing *United States v. White Dental Mfg. Co.*, 274 U.S. 398. An identifiable event is defined as "an incident or occurrence that points to or indicates a loss." The court emphasized that substance, not mere form, governs in determining whether losses are deductible, referencing *North Jersey Title Insurance Co. v. Commissioner*, 84 F.2d 898. The court distinguished this case from *Commissioner v. Winthrop*, 98 F.2d 74, where the amount of the loss was determinable with reasonable certainty in a prior year. Here, although some recovery was expected from the bank, the amount was uncertain until 1940. The court stated, "Partial losses are not allowable as deductions from gross income so long as the stock has a value and has not been disposed of." In this case, the amount of further distributions could not be determined with reasonable certainty until the final distribution in 1940.

Practical Implications

This case illustrates the importance of identifying the specific tax year in which a loss is actually sustained for deduction purposes. The ruling reinforces the principle that the deduction of a loss requires a closed and completed transaction marked by an identifiable event. Attorneys and tax professionals must carefully analyze the facts to determine when the loss became reasonably certain, even if some uncertainty existed in prior years. This case serves as a reminder that the tax treatment of losses depends on a practical, fact-based inquiry rather than rigid adherence to legal formalities. Later cases have cited *Bills* for the proposition that the timing of a loss deduction is a question of fact dependent on the specific circumstances.

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