11 T.C. 96 (1948)

A loss from the sale of a farm, even if the farm was operated as a business, is not fully deductible as a net operating loss carryover if the taxpayer has other income not derived from that business; the deduction is limited to the amount of gross income not derived from the business.

Summary

Hartwig Baruch sold his livestock and produce farm in 1942, incurring a significant loss. He attempted to carry this loss forward to reduce his taxable income in 1943 and 1944. The Commissioner of Internal Revenue allowed the initial loss deduction in 1942 but disallowed the carryover to subsequent years, arguing that the loss was not attributable to the regular operation of a trade or business. The Tax Court agreed with the Commissioner, holding that Section 122(d)(5) of the Internal Revenue Code limited the carryover to the extent of Baruch's gross income not derived from the farm.

Facts

Hartwig Baruch owned and operated a livestock and produce farm in Virginia from 1917 until he sold it on May 8, 1942. The sale resulted in a net loss of $61,163.33. In 1942, Baruch also had gross taxable income of $18,231.66, none of which was derived from the farm. He had deductions of $75,279.29, including the farm sale loss. In 1943 and 1944, Baruch attempted to carry forward the net operating loss from the farm sale to offset his income in those years.

Procedural History

The Commissioner determined deficiencies in Baruch's income tax for 1943 and 1944, disallowing the net operating loss carryover from the 1942 farm sale. Baruch petitioned the Tax Court for a redetermination of the deficiencies.

Issue(s)

Whether the net loss from the sale of Baruch's farm in 1942 was fully deductible as a net operating loss carryover to 1943 and 1944, or whether it was limited by Section 122(d)(5) of the Internal Revenue Code to the extent of his gross income not derived from the farm.

Holding

No, because Section 122(d)(5) of the Internal Revenue Code limits deductions not attributable to a trade or business regularly carried on by the taxpayer to the amount of gross income not derived from such trade or business.

Court's Reasoning

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The Tax Court relied on its prior decision in *Joseph Sic, 10 T.C. 1096*, which addressed the same issue. The court acknowledged Baruch's argument that the loss should be fully deductible because the farm was a business. However, the court emphasized the specific language of Section 122(d)(5), which states that

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