12 T.C. 114 (1949)

A corporation is not liable for capital gains tax when its principal asset is transferred to its sole stockholder (a purchasing company) as a liquidating dividend after the purchasing company acquires all of the corporation's stock, particularly when the purchasing company's initial attempt to directly purchase the asset was unsuccessful.

Summary

Dallas Downtown Development Co. (Development Co.) faced a tax deficiency assessment after its building was transferred to Texas Bank & Trust Co. (Texas Bank) following a stock purchase and liquidation. Texas Bank had initially tried to buy the building directly from Development Co. but was unsuccessful. It then bought all of Development Co.'s stock through nominees and liquidated the company. The Tax Court held that Development Co. was not liable for capital gains tax because the transfer was a liquidating dividend to its sole stockholder, Texas Bank, and not a sale of assets by the corporation itself. The purchasing company's intent matters. The court focused on the substance of the transaction over its form.

Facts

Development Co. owned the Texas Bank Building, where Texas Bank was a tenant. Texas Bank wanted to own the building but faced legal restrictions on how much it could invest in real estate. Texas Bank representatives (Overton, McCarty, and Burgher) tried to buy the building directly from Development Co., but the shareholders rejected the offer. The Texas Bank representatives then formed Dallas Downtown Investment Co. (Investment Co.). They then purchased all of Development Co.'s stock. After purchasing the stock, Development Co. was dissolved. The building was transferred, through Investment Co. as an intermediary, to Texas Bank.

Procedural History

The Commissioner of Internal Revenue determined a deficiency in income tax against Development Co., arguing it realized a capital gain from the

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