12 T.C. 270 (1949)

When a corporation repays a prior donation of stock to a shareholder pursuant to a documented agreement to repay, the repayment is considered a return of capital, not a taxable dividend.

Summary

In 1932, to bolster the Moorlane Co.'s finances during the Depression, petitioner Wm. D. Moorer and other officers donated stock to the company, receiving in exchange a "contingent claim for services rendered" to be repaid in stock when financially feasible. In 1933, a recapitalization occurred, and each donor received new stock with lower par value. In 1941, Moorer received a $30,130 credit towards his stock subscription, representing repayment for his stock donation. The Commissioner of Internal Revenue argued this was a taxable dividend. The Tax Court held that the $30,130 was not a taxable dividend because it was repayment of a prior agreement, not a distribution of profits.

Facts

Moorer, the president and principal stockholder of Moorlane Co., donated 164 shares of common and 103 shares of preferred stock back to the company in 1932 to improve its financial position during the Depression. In exchange, he received a

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