13 T.C. 399 (1949)

A corporation acquiring property in a reorganization under Section 112(g) of the Internal Revenue Code can use the predecessor's basis for depreciation and equity invested capital if the acquisition was solely for voting stock and the plan meets statutory requirements.

Summary

Roosevelt Hotel Co. (petitioner) sought to use the basis of its predecessor, Hotel Holding Co., for depreciation and equity invested capital. Hotel Holding Co. defaulted on its bonds, leading to a bondholders' committee acquiring the property at a foreclosure sale and subsequently forming Roosevelt Hotel Co. to take title. The Tax Court held that this transfer constituted a reorganization under Section 112(g) because the acquisition was substantially all the property of the Holding Co. solely for voting stock, allowing Roosevelt Hotel Co. to use its predecessor's basis.

Facts

The Hotel Holding Co. defaulted on its bonds, leading to the trustee taking possession of the hotel in 1931.
A Bondholders' Protective Committee was formed to protect the bondholders' interests.
The Committee adopted a plan of reorganization in 1935 and organized Roosevelt Hotel Co. to take title to the property.
The trustee held a public sale, and the Committee bid on the property, assigning the bid to Roosevelt Hotel Co.
Roosevelt Hotel Co. issued stock to the bondholders in proportion to their holdings, with a small percentage of bondholders receiving cash instead.

Procedural History

The Commissioner of Internal Revenue determined deficiencies in Roosevelt Hotel Co.'s income and excess profits taxes for the years 1940-1943.
The dispute centered on the basis Roosevelt Hotel Co. was entitled to use for depreciation and equity invested capital.
The Tax Court ruled in favor of Roosevelt Hotel Co., allowing it to use the predecessor's basis.

Issue(s)

Whether the transfer of property from Hotel Holding Co. to Roosevelt Hotel Co. was pursuant to a plan of reorganization under Section 112(g) of the Internal Revenue Code.
Whether Roosevelt Hotel Co. acquired the properties solely for voting stock, as required for a tax-free reorganization.

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Holding

Yes, because the bondholders, through their committee, effectively controlled the assets of Hotel Holding Co. and formed Roosevelt Hotel Co. to continue the business.
Yes, because the cash used was from the transferor's assets and used to pay off non-assenting bondholders, not new cash from the acquiring corporation.

Court's Reasoning

The Tax Court relied heavily on the Supreme Court's decisions in *Helvering v. Alabama Asphaltic Limestone Co.*, 315 U.S. 179 (1942) and related cases, which established that a reorganization could occur when creditors of a corporation form a new corporation and acquire the assets at a judicial sale. The court emphasized that the continuity of interest requirement was met because the bondholders retained control through their stock ownership in the new corporation. The court distinguished *Helvering v. Southwest Consolidated Corporation*, 315 U.S. 194 (1942), noting that the cash used to pay off non-assenting bondholders came from the transferor's assets, not new cash from the acquiring corporation. The court stated that "[t]he assumption of a liability of the predecessor or the fact that the property is subject to a liability is to be disregarded under the statute."

Practical Implications

This case clarifies the application of Section 112(g) in the context of corporate reorganizations involving financially distressed companies.
It highlights that a plan of reorganization does not need to be immediately adopted when a trustee or committee takes control of a company's assets; a reasonable delay in formulating a plan is permissible.
The case emphasizes that the source of funds used to satisfy non-assenting creditors is critical; if the funds come from the transferor's assets, the "solely for voting stock" requirement is not violated.
Later cases have cited Roosevelt Hotel for the principle that the assumption of liabilities by the acquiring corporation does not disqualify a reorganization under Section 112(g).

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