15 T.C. 133 (1950)

A taxpayer cannot deduct real estate taxes paid out of the proceeds of a foreclosure sale of property formerly owned by the taxpayer if the taxpayer is not personally liable for the taxes and no longer owns the property when the payment is made.

Summary

George and Myrtle Mogg sought to deduct real estate taxes paid from the proceeds of a tax foreclosure sale of their property. The Tax Court disallowed the deduction, holding that the Moggs were not entitled to deduct the taxes because they were not personally liable for the taxes and had already lost the property through foreclosure when the taxes were paid. The court emphasized that to be deductible, the taxes must be those of the taxpayer.

Facts

The Moggs acquired a ten-acre property in 1926. They became delinquent on their real estate taxes and assessments beginning in 1933. In 1945, a foreclosure action was initiated by the county treasurer due to the unpaid taxes. The court foreclosed the Moggs' equity of redemption and ordered the property sold. The property was sold at a sheriff's sale for $4,010. From the sale proceeds, $3,823.19 was paid to the county treasurer to cover the delinquent taxes, including $961.97 in general taxes and the remainder in special assessments.

Procedural History

The Moggs claimed a deduction of $3,823.19 for taxes paid on their 1945 income tax return. The Commissioner of Internal Revenue disallowed the deduction, leading to a deficiency assessment. The Moggs petitioned the Tax Court, contesting the disallowance of the deduction. They later conceded that the special assessments were not deductible, focusing their argument on the deductibility of the $961.97 in general real estate taxes.

Issue(s)

Whether the payment of real estate taxes out of the proceeds of a tax foreclosure sale of property formerly owned by the Moggs entitles them to a deduction for those taxes.

Holding

No, because the Moggs were not personally liable for the taxes, and they no longer owned the property when the taxes were paid from the sale proceeds.

Court's Reasoning

The Tax Court reasoned that a taxpayer must have an obligation to make the payment for it to be deductible. This obligation can arise from personal liability or from the tax being a charge against the taxpayer's property. In this case, the Moggs were not claimed to be personally liable for the delinquent taxes. More importantly, because the Moggs had already lost the property through foreclosure when the taxes were paid, the taxes could not be considered a charge or encumbrance against any property they owned or in which they had an interest. The court distinguished *Harold M. Blossom, 38 B.T.A. 1136*, noting that in *Blossom*, the taxpayer was liable for the interest payment, which made it deductible. The court emphasized that the "missing element is liability; the taxes paid must be those of petitioners."

Practical Implications

This case clarifies that a taxpayer cannot deduct real estate taxes paid from the proceeds of a foreclosure sale if they are not personally liable for the taxes and no longer own the property when the payment is made. This decision reinforces the principle that deductible taxes must be the taxpayer's own obligation. Taxpayers should ensure they are personally liable for the taxes they seek to deduct and that the taxes relate to property they own during the tax year. Later cases have cited *Mogg* to support the principle that a taxpayer must have a direct and present interest in the property for taxes paid on that property to be deductible.

