15 T.C. 534 (1950)

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Property acquired with the intent to be used in a trade or business qualifies as “property used in the trade or business” for tax purposes, even if its intended use is later thwarted by circumstances beyond the taxpayer’s control.

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Summary

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Alamo Broadcasting Company purchased a Mexican radio station’s equipment, including a transmitter and diesel power unit, intending to use them to enhance their broadcasting capabilities. Due to unforeseen circumstances, they were only able to import the transmitter. When Alamo Broadcasting later sold the diesel unit at a loss, the IRS disallowed the loss, arguing it was either a capital loss or should reduce the transmitter’s cost basis. The Tax Court ruled that the loss was deductible as an ordinary loss because the diesel was initially acquired for use in the business, regardless of its eventual non-use.

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Facts

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Alamo Broadcasting Company, operating radio station KABC, sought to increase its broadcasting power but faced wartime restrictions on acquiring new equipment. To circumvent these limitations, they purchased Mexican radio station XENT, which included a 50,000-watt transmitter, a diesel power plant, and other equipment. Their intent was to move this equipment to San Antonio for use at KABC. They obtained an option to purchase the station in January 1944, and later filed an application with the FCC stating they planned to purchase the Mexican Station XENT and that certain equipment would be removed from Mexico and used in the improvement of petitioner’s facilities at San Antonio, Texas. While they initially intended to use all the equipment, including the diesel unit as a source of auxiliary power, they later faced difficulties in obtaining export permits from the Mexican government.

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Procedural History

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The Commissioner of Internal Revenue determined a deficiency in Alamo Broadcasting's income tax liability for 1946, disallowing a claimed loss on the sale of the diesel generator. Alamo Broadcasting petitioned the Tax Court, contesting the disallowance. The Tax Court then reviewed the case based on the pleadings, testimony, and a stipulation of facts.

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Issue(s)

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1. Whether the loss incurred from the sale of the diesel power unit constitutes a loss from the sale of property

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