*16 T.C. 144 (1951)*

When stock in a cooperative apartment is purchased with dual motives (personal residence and business investment), a loss on the sale of the stock is deductible as a capital loss only to the extent allocable to the business investment.

**Summary**

William Calder purchased stock in a cooperative apartment building, intending to both secure a residence and profit from the rental of non-owner-occupied apartments. Upon selling the stock at a loss, he sought to deduct the entire loss as a business expense. The Tax Court held that only the portion of the loss attributable to the business investment aspect of the stock purchase was deductible. The court allocated the loss based on the ratio of rental value of owner-occupied vs. non-owner-occupied apartments.

**Facts**

In 1929, William Calder purchased shares in 35 Park West Corporation, which owned a cooperative apartment building. Calder intended to occupy an apartment in the building and believed the cooperative structure, with non-owner tenants contributing to mortgage amortization, presented an investment opportunity. He acquired additional shares in 1934 and 1937 when moving to larger apartments within the building. In 1941, Calder moved out and subleased his apartment. In 1944, Calder sold all his stock and assigned his lease for $1, incurring a loss. The cooperative structure anticipated that roughly 70% of apartments would be owner-occupied, and 30% rented to non-owners.

**Procedural History**

Calder did not claim a loss on the sale of the stock in his 1944 tax return. He later argued he was entitled to a long-term capital loss deduction and claimed an overpayment of tax. The Commissioner of Internal Revenue denied the full deduction. Calder then petitioned the Tax Court for a determination of the deficiency.

**Issue(s)**

Whether the loss incurred on the sale of stock in a cooperative apartment building is fully deductible as a business loss when the stock was purchased with the dual intent of securing a personal residence and making a business investment.

**Holding**

No, because when stock is purchased with dual motives, only the portion of the loss allocable to the business investment is deductible as a capital loss.

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## Court’s Reasoning

The Tax Court reasoned that to deduct the entire loss, Calder needed to prove the stock was purchased for business reasons, with the predominant motive being profit. The court found that Calder’s motives were dual: to provide a family residence and to profit from the cooperative structure. Because Calder also intended to reside in the apartment, his motive was not solely for profit. The court determined that a reasonable allocation could be made based on the percentage of rental values of owner versus non-owner apartments. Since about 70% of the apartments were intended for owner-occupancy and 30% for non-owner rental, 30% of the loss was attributable to the business investment. The court stated,

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