16 T.C. 678 (1951)

Real property inherited by a taxpayer and unsuccessfully offered for rent is considered ‘used in a trade or business,’ allowing for an ordinary loss deduction upon its sale rather than a capital loss.

Summary

Mary Crawford inherited property, including a residence, from her husband. She abandoned the residence and attempted to rent it unsuccessfully. The Tax Court addressed whether the loss from the sale of the property was an ordinary loss or a capital loss. The court held that because Crawford immediately abandoned the property as a residence and actively sought to rent it, the property was considered used in her trade or business. Therefore, the loss was an ordinary loss, fully deductible, rather than a capital loss with limited deductibility.

Facts

Mary Crawford inherited a five-sevenths interest in a property from her husband, Edwin, which they had used as their residence. The remaining two-sevenths belonged to Edwin’s brother, James. Shortly after Edwin’s death, Mary moved out and purchased a new home. She purchased the remaining two-sevenths interest from James’ estate. She then attempted to rent the property but was unsuccessful. To facilitate a sale, she demolished the main residence and other structures on the property. She ultimately sold the land at a loss.

Procedural History

The Commissioner of Internal Revenue disallowed the full loss claimed by Crawford, treating it as a capital loss subject to limitations. Crawford petitioned the Tax Court, arguing that the loss was an ordinary loss because the property was used in her trade or business.

Issue(s)

Whether the loss sustained by the taxpayer from the sale of inherited property, which she unsuccessfully attempted to rent, constitutes an ordinary loss deductible under Section 23(e) of the Internal Revenue Code, or a capital loss under Section 117(a)(1).

Holding

Yes, because the taxpayer abandoned the property as a residence immediately after inheriting it and actively sought to rent it, demonstrating an intent to use it in a trade or business.

Court’s Reasoning

© 2025 SCOTUSreports.com. All rights reserved.

The court emphasized that Crawford never intended to use the inherited property as her personal residence. Instead, she made immediate efforts to rent it, indicating a business purpose. The court distinguished this case from situations where a taxpayer attempts to convert a personal residence into a business property after a period of personal use. The court cited several precedents, including *N. Stuart Campbell, 5 T.C. 272* and *Quincy A. Shaw McKean, 6 T.C. 757*, which held that efforts to rent property, even if unsuccessful, can qualify it as being used in a trade or business. The court also noted that the Revenue Act of 1942 eliminated the distinction between land and buildings for the purpose of determining whether a loss is ordinary or capital. Therefore, because Crawford demonstrated a clear intent to use the property for business purposes (i.e., renting it), the loss was an ordinary loss.

Practical Implications

Crawford provides important guidance on determining when inherited property qualifies as being used in a trade or business for tax purposes. It highlights the importance of the taxpayer's intent and actions immediately following the acquisition of the property. If a taxpayer inherits property and promptly abandons it as a residence, actively seeking to rent or sell it, the IRS and courts are more likely to treat any resulting loss as an ordinary loss, which is fully deductible, rather than a capital loss, which is subject to limitations. This ruling affects how taxpayers structure their affairs when inheriting property they do not intend to use personally. This case is frequently cited in cases involving the deductibility of losses on the sale of real property and helps to distinguish between investment properties and personal-use assets.

© 2025 SCOTUSreports.com. All rights reserved.