17 T.C. 965 (1951)

The sale of breeding animals held for more than six months from a breeding herd, but not necessary thereto, results in capital gain, not ordinary income, under Section 117(j) of the Internal Revenue Code, unless the animals are held primarily for sale to customers in the ordinary course of business.

Summary

Greer and Hale formed a partnership to raise chinchillas for pelting. They sold some animals over several years and eventually sold the entire herd, later repossessing a portion. The Tax Court addressed whether the income from the chinchilla sales should be taxed as ordinary income or as capital gains under Section 117(j) of the Internal Revenue Code. The court held that the sale of breeding animals from a breeding herd qualified for capital gains treatment, but that certain younger, unproven animals did not meet the definition of breeding stock and their sale resulted in ordinary income. The court differentiated between animals held for breeding purposes versus those held primarily for sale.

Facts

In 1941, William Wallace Greer, Jr., and Edward E. Hale formed a partnership to raise chinchillas, named Greer-Hale Chinchilla Ranch. They purchased ten pairs of chinchillas, which were capitalized and depreciated on the partnership's books. The majority of animals on the ranch were descendants of the original ten pairs. The partnership registered the trade name "Soft Gold" for the fur. From 1941 to October 1, 1946, the partnership sold 93 pairs of chinchillas. On October 1, 1946, the partnership sold its entire herd of 127 pairs to Dominion Chinchilla Ranchers, Ltd. (the "Canadians"). In July 1947, the partnership repossessed 53 pairs of chinchillas due to a dispute with the Canadians, resulting in the Canadians retaining only 74 pairs.

Procedural History

The Commissioner of Internal Revenue determined deficiencies in the petitioners' income tax for 1947, arguing that income from the sale of chinchillas was ordinary income, not capital gain. The cases were consolidated in the Tax Court, which was tasked with determining the proper tax treatment of the income from the chinchilla sales.

Issue(s)

Whether income from the sale of chinchillas by the partnership is taxable as ordinary income or as capital gain under Section 117(j) of the Internal Revenue Code.

Holding

© 2025 SCOTUSreports.com. All rights reserved.

No, for 58 animals; Yes, for 90 animals. The court held that the sale of 90 chinchillas, determined to be breeding animals, resulted in capital gain, while the sale of 58 chinchillas that were not proven breeding animals resulted in ordinary income. This is because the 90 animals were capital assets used in the business, while the remaining 58 were not proven to be part of the breeding stock.

Court's Reasoning

The court relied on established precedent that breeding animals from a breeding herd, held for more than six months, are capital assets under Section 117(j). The key question was whether the animals sold were breeding animals or held primarily for sale in the ordinary course of business. Citing *Albright v. United States*, the court stated that sales of breeding animals, even if considered "culls," can result in capital gain if they are part of the breeding herd but not necessary for its maintenance. The court analyzed the partnership's objective, noting that they registered a trade name for the fur, suggesting their primary purpose was to sell pelts, not animals. The court determined that most of the animals sold were those deemed unnecessary or unfit for the breeding herd. The court distinguished animals that had not yet produced offspring, and therefore were not yet "used in the trade or business." The court concluded that 58 animals had not proven themselves as breeders and therefore their sale resulted in ordinary income.

Practical Implications

This case clarifies the application of Section 117(j) to the sale of livestock, specifically breeding animals. It emphasizes the importance of establishing that animals sold were actually part of a breeding herd and were

© 2025 SCOTUSreports.com. All rights reserved.