17 T.C. 1593 (1952)

A taxpayer's advances to a wholly-owned corporation are not deductible as business bad debts or losses if the corporation was insolvent at the time the taxpayer guaranteed its obligations and the taxpayer's primary motivation was not business-related.

Summary

George B. Markle, Jr. sought to deduct disbursements made to his wholly-owned corporation, Hazleton Auto Sales Company, for interest and real estate taxes. The Tax Court addressed whether these payments constituted deductible business bad debts or losses. Markle had guaranteed the Sales Company's debts. The court held that Markle did not meet the burden of proving the distributions were allowable as business bad debts or losses. The Court also held that the basis of the petitioner's interest in the trust was the original amount of the investment therein.

Facts

George B. Markle, Jr., was the sole stockholder and president of Hazleton Auto Sales Company. The Sales Company, a retail Ford dealer until 1930, retained real estate but operated at a deficit. Markle executed agreements of suretyship with two banks to cover the Sales Company's judgment notes. The agreements were made because the Sales Company's real estate had depreciated in value, and Markle wanted to protect his community standing and business interests. Markle also owned controlling interests in other companies. He made disbursements to the Sales Company to cover real estate taxes and interest payments, preventing default on its mortgage and notes. The Sales Company's income was insufficient to meet its obligations, and there was no reasonable expectation of repayment.

Procedural History

The Commissioner of Internal Revenue determined income tax deficiencies for Markle for the years 1943, 1944, and 1945. Markle contested the deficiencies, arguing that the disbursements to the Sales Company were fully deductible. The Commissioner argued that the amounts were nonbusiness bad debts, deductible only as short-term capital losses. The Commissioner also affirmatively pleaded that any deductions were in error.

Issue(s)

1. Whether disbursements made by Markle to his wholly-owned corporation for payment of interest and real estate taxes are fully deductible as business bad debts.
2. Whether, in connection with investments in participating fractional interests in bonds and mortgages held by a trust company, Markle sustained ordinary losses in the amount claimed.

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Holding

1. No, because Markle failed to prove that the Sales Company was solvent when he originally guaranteed its obligations and because his primary motivation for the guarantees was not business-related.
2. Yes, because the basis adopted by the petitioner which was the original amount of the investment was properly used by him in computing the loss.

Court’s Reasoning

The court reasoned that for the disbursements to qualify as business bad debts, Markle needed to show that the Sales Company was solvent when he guaranteed its debts and that he had a reasonable expectation of repayment. The court found the evidence

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