19 T.C. 183 (1952)

A taxpayer may claim a deduction for a war loss under Section 23(e) of the Internal Revenue Code when property, initially deemed lost or seized due to war, is temporarily recovered and subsequently confiscated by a foreign government.

Summary

Andrew Solt inherited a farm interest in Hungary. Following the U.S. declaration of war on Hungary in 1942, this interest was considered a war loss. In early 1945, Solt's brother briefly regained control of the farm. Shortly after, the Hungarian government confiscated the land. Solt claimed a deduction for this loss in 1945. The Tax Court held that Solt was entitled to a deduction for the loss, calculated based on the adjusted basis of the property at the time of the war declaration, because the temporary recovery did not negate the subsequent confiscation.

Facts

Andrew Solt inherited a one-sixth interest in a farm in Hungary in 1934. He immigrated to the United States and obtained permanent residency. In 1942, the U.S. declared war on Hungary. In February 1945, Solt's brother regained possession of the farm. On March 15, 1945, the Hungarian government confiscated the farm as part of a land reform program. Solt did not receive any compensation for the confiscation.

Procedural History

The Commissioner of Internal Revenue determined a deficiency in Solt's 1945 income tax. Solt challenged this determination in the Tax Court, arguing that he was entitled to a deduction for the confiscated farm interest. The Tax Court ruled in favor of Solt, allowing the deduction.

Issue(s)

1. Whether Solt sustained a deductible loss in 1945 under Section 23(e) of the Internal Revenue Code due to the confiscation of his farm interest in Hungary.
2. Whether the temporary recovery of the farm by Solt's brother in early 1945 negated the subsequent confiscation by the Hungarian government.

Holding

1. Yes, because the farm was confiscated by the Hungarian government in 1945, resulting in a loss for Solt.
2. No, because the brief recovery of the property prior to its confiscation did not negate the fact that Solt ultimately lost the property due to government action.

Court's Reasoning

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The court reasoned that Solt experienced a war loss in 1942 when war was declared with Hungary, triggering Section 127(a)(2) of the Internal Revenue Code. The court found that there was a "recovery within the meaning of section 127(c)" when Solt's brother retook possession of the farm in February 1945. However, this recovery was short-lived, as the farm was confiscated by the Hungarian government on March 15, 1945. Therefore, Solt was entitled to a deduction under Section 23(e), measured by the adjusted basis of his interest in the property. The court determined the adjusted basis to be $7,500, doing the best it could with the limited evidence presented, quoting *Cohan v. Commissioner*, 39 F.2d 540, 544: "the Board should make as close an approximation as it can, hearing heavily if it chooses upon the taxpayer whose inexactitude is of his own making."

Practical Implications

This case clarifies the interaction between war loss deductions, property recovery, and subsequent confiscation. It establishes that a brief recovery of property does not necessarily preclude a deduction if the property is later lost due to government action. The decision emphasizes the importance of accurately determining the adjusted basis of property when claiming such deductions and highlights the court's willingness to approximate basis when exact figures are unavailable due to circumstances beyond the taxpayer's control. This ruling is especially relevant for taxpayers who have had property seized or destroyed during wartime and subsequently experienced further losses following a temporary restoration of control.

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