Reilly Oil Co., 13 T.C. 919 (1949), aff'd (C.A. 5) 189 F.2d 332

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In a corporate reorganization under Section 112(b)(10) of the Internal Revenue Code, a sufficient continuity of interest exists when a substantial portion of the insolvent corporation's property is transferred to a new corporation and a large majority of the old corporation's bondholders are in control of the new corporation, even if not all bondholders participate.

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Summary

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Reilly Oil Co. involved a dispute over the depreciation basis of assets acquired through a corporate reorganization following foreclosure proceedings. The Tax Court determined whether the new corporation's basis in the assets was determined by the insolvent predecessor's basis under Section 113(a)(22) I.R.C., which hinged on whether the transfer qualified under Section 112(b)(10). The court found that a plan of reorganization existed, it was approved by the court, and a sufficient continuity of interest was maintained by the bondholders, even with less than 100% participation. Therefore, the new corporation's basis was the same as the old corporation's basis.

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Facts

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An insolvent corporation's property was subject to foreclosure proceedings. A plan was proposed where the property would be bid on by a majority of bondholders, who would then form a new corporation. The new corporation's stock would be issued in exchange for the bonds of the old corporation. The supervising court modified the plan to meet its requirements. The plan was executed, and a new corporation was formed.

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Procedural History

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The Commissioner challenged the depreciation deductions claimed by Reilly Oil Co., arguing the company’s basis in the assets was incorrect. The Tax Court reviewed the Commissioner’s determination.

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Issue(s)

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Whether the transfer of property from the insolvent corporation to the new corporation qualified under Section 112(b)(10) of the Internal Revenue Code, such that under Section 113(a)(22) the petitioner’s basis depends upon that of its predecessor.

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Holding

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Yes, because the bondholders of the old corporation effectively became the owners of its property, and under a plan of reorganization approved by the court, substantially all of the corporation’s property was transferred to a new corporation controlled by a large majority of the bondholders.

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Court’s Reasoning

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The court reasoned that a plan existed because the proposed actions constituted a

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