21 T.C. 727 (1954)

The court determined that the mortgage pool was a partnership for tax purposes and that the taxpayer had not demonstrated that he was entitled to a loss deduction in the year in question.

Summary

The Estate of Philip Landau challenged the Commissioner's determination of a tax deficiency, disputing the classification of a mortgage pool in which Landau had invested and the timing of a claimed loss deduction. The court considered whether the pool was a trust, a partnership, or an association taxable as a corporation. The court held that the pool functioned as a partnership. Because the taxpayer failed to demonstrate that the loss was not a capital loss or was otherwise deductible, the court sided with the Commissioner. The court emphasized the taxpayer's burden to establish the proper tax treatment and the lack of evidence supporting an alternative classification of the pool.

Facts

In 1930, the Bank of Pittsburgh National Association created a mortgage pool in which investors could purchase participation interests. Philip Landau and his wife created a revocable trust, with the bank as trustee, and invested $50,000 in the bank's mortgage pool. A receiver was later appointed for the bank, and the Commonwealth Trust Company of Pittsburgh took over the mortgage pool and began liquidating it, making distributions of principal and income to participants. The final distribution occurred in 1948. The Commissioner treated the participants in the mortgage pool as partners, and he determined a capital loss. Landau's estate claimed an ordinary loss.

Procedural History

The Commissioner determined a tax deficiency against the estate. Landau's executors contested this determination, arguing for a different characterization of the loss. The U.S. Tax Court heard the case.

Issue(s)

1. Whether the mortgage pool should be classified as a trust, partnership, or corporation for federal income tax purposes.

2. Whether the taxpayer sustained a deductible ordinary loss in 1948.

Holding

1. No, because the taxpayer failed to demonstrate that the pool was not a partnership.

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2. No, because the taxpayer did not provide sufficient evidence to show that the loss was deductible in 1948 or that it was an ordinary loss.

Court’s Reasoning

The court relied on the definition of partnership found in the Internal Revenue Code, which included

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