***Estelle Gluck v. Commissioner*, 9 T.C. 131 (1947)**

A taxpayer may not deduct as a bad debt the worthlessness of a claim if the taxpayer acquired that claim without a reasonable expectation of repayment, either through voluntary purchase or by operation of law.

Summary

In *Gluck v. Commissioner*, the Tax Court addressed whether a taxpayer could deduct losses from debts owed by her deceased husband's estate. The taxpayer had paid the estate's creditors and received assignments of their claims, and had also acquired a claim through subrogation when she paid a debt on which she was a co-maker with her husband. The court held that the taxpayer could not deduct as bad debts losses stemming from the claims that she acquired through the creditors, because she had no reasonable expectation of repayment. However, the court failed to address the loss resulting from the claim she acquired by operation of law. The dissent argued that the taxpayer should be allowed to deduct her loss on all claims.

Facts

Estelle Gluck's husband died, leaving an estate with debts. Gluck paid the creditors of her deceased husband's estate a total of $48,635.56 and received assignments of their claims. She also had personal liability on a debt of the estate as a co-maker, that arose from three promissory notes she and her husband had executed. Upon settlement of her claims against the estate, she received $3,923.05 in cash and shares of stock, which were of a value less than the amount she had paid to creditors. She sought to deduct the difference as a non-business bad debt. The Commissioner disallowed the deduction.

Procedural History

The Commissioner of Internal Revenue disallowed Gluck's deduction. The Tax Court heard the case.

Issue(s)

1. Whether Gluck could deduct, as a non-business bad debt, the losses resulting from the assigned claims she purchased from the estate's creditors.

Holding

1. No, because Gluck did not have a reasonable expectation of repayment when acquiring the purchased claims, and thus these were not properly considered debts.

Court's Reasoning

The court stated the general rule that a taxpayer may not create a right to a bad debt deduction by making a payment without reasonable expectation of repayment. The court viewed Gluck's payment to the creditors and subsequent receipt of their claims as a voluntary action without a reasonable expectation of recovering the full value. The court said that the worthlessness of those claims existed at the time they were created or acquired and thus could not be deducted as a bad debt. The court did not address the claim Gluck acquired through subrogation.

The dissent argued that Gluck's claim acquired by operation of law should be deductible as a non-business bad debt because it was not voluntarily acquired or created by her. The dissent cited the *Houk* case to support the argument that the purchase of the claims was not a voluntary assumption without consideration, but a purchase and that the obligations represented by the notes and judgments could be considered by the trust in computing bad debt deductions for income tax purposes. The dissent also stated that it was necessary that Gluck purchase all other outstanding claims to prevent a forced sale of the stock held by the estate.

Practical Implications

This case highlights the importance of establishing a reasonable expectation of repayment to claim a bad debt deduction. Attorneys and tax advisors must carefully analyze the circumstances surrounding the creation or acquisition of a debt to determine whether a deduction is permissible. The decision reinforces the principle that gratuitous payments or contributions to capital are generally not deductible as bad debts.

