***Camp Wolters Land Co. v. Commissioner*, 23 T.C. 756 (1955)**

The court determined that certain non-negotiable, unsecured installment notes issued by a corporation in exchange for contract and restoration rights qualified as "securities" under Section 112(b)(5) of the Internal Revenue Code, and therefore, the transaction was a tax-free exchange; the court also addressed the proper basis of the acquired property and the allowance of depreciation deductions.

Summary

This case involved a tax dispute concerning the basis of property acquired by Camp Wolters Land Co. (petitioner) from the U.S. Government. The petitioner issued notes to the Dennis Group (the transferor) for assignment of a contract and restoration rights. The court had to determine whether these notes qualified as "securities" to decide if the transaction fell under Section 112(b)(5) of the Internal Revenue Code (tax-free exchange). Additionally, the court addressed the proper basis of the acquired property, and the allowance of depreciation deductions. The court found the notes were "securities" and were part of a tax-free exchange, so the petitioner's basis in the contract and restoration rights was equal to the Dennis Group's cost. The court also found that petitioner's primary purpose was to sell the buildings and disallowed depreciation deductions for buildings not actually rented.

Facts

The U.S. Government leased land for Camp Wolters, requiring the government to restore the land. The Dennis Group acquired the leased land and restoration rights. The Dennis Group contracted with the government to acquire the buildings and improvements in return for cash and release of restoration rights. The petitioner, Camp Wolters Land Co., was then chartered, and the Dennis Group transferred the land and contract to the petitioner in exchange for land notes, cash, and building notes. The petitioner then paid cash to the government and released the restoration rights. The tax dispute arose concerning whether the building notes should be included in the petitioner's basis in the buildings and improvements.

Procedural History

The case was brought before the Tax Court. The Commissioner of Internal Revenue determined deficiencies in the petitioner's income tax, which were challenged by the petitioner. The Tax Court reviewed the case, considered the arguments and evidence, and ultimately issued a decision.

Issue(s)

1. Whether the building notes issued by petitioner to the Dennis Group for the assignment of the contract and restoration rights constituted "securities" within the meaning of Section 112(b)(5) of the Internal Revenue Code.

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2. Whether the petitioner's basis in the contract and restoration rights should include the face amount of the building notes.

3. Whether the petitioner was entitled to depreciation deductions for the Camp Wolters buildings.

Holding

1. Yes, because the notes' characteristics indicated they were "securities" within the meaning of Section 112(b)(5) of the Internal Revenue Code.

2. No, because the exchange fell under Section 112(b)(5), the petitioner's basis for the contract and restoration rights was the Dennis Group's basis plus any recognized gain, not the face value of the notes.

3. No, depreciation deductions were only allowed for those buildings that the petitioner actually rented, because the other buildings were held primarily for sale and not for investment.

Court's Reasoning

The court applied Section 112(b)(5) of the Internal Revenue Code, which concerns tax-free exchanges when property is transferred to a corporation in exchange for stock or securities by those in control of the corporation. The court first determined the exchange met the control and proportionate interest tests. Then, the court focused on whether the building notes were "securities." The court examined the characteristics of the notes, and whether the nature of the debt gave the creditor an assured participation or continuing interest in the business. The court cited several cases in order to differentiate "securities" from short-term notes. Considering the notes' terms (five-year term, installment payments, non-negotiability, and a substantial risk assumed by note-holders), the court found they were

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