22 T.C. 1127 (1954)

A shareholder who receives property from a dissolving corporation in exchange for their shares is liable as a transferee for the corporation's unpaid taxes, up to the value of the assets received.

Summary

The case concerns the tax liability of Eleanor H. Vendig as a transferee of Mavco Sales, Inc. Mavco Sales transferred all its assets to its parent company, Mavco, Inc., and dissolved. In exchange for her preferred stock in Mavco Sales, Vendig received preferred stock in Mavco, Inc. The IRS sought to collect unpaid taxes from Mavco Sales from Vendig, arguing she was liable as a transferee. The Tax Court held that Vendig was liable for the taxes because she received assets of Mavco Sales, Inc., in exchange for her preferred stock, leaving the dissolved corporation insolvent. The court found that Vendig was a transferee and, therefore, liable for the corporation's unpaid taxes, up to the value of the assets she received.

Facts

Eleanor H. Vendig held preferred stock in Mavco Sales, Inc. Mavco Sales was a subsidiary of Malcolm A. Vendig Company, Incorporated. A plan of reorganization was implemented where Mavco Sales transferred all its assets and liabilities to the parent company, Malcolm A. Vendig Company, Inc. (later renamed Mavco, Inc.), and then dissolved. As part of the plan, Vendig exchanged her preferred stock in Mavco Sales for an equivalent amount of preferred stock in Mavco, Inc. Mavco Sales was dissolved on January 29, 1946. Mavco Sales, Inc., became insolvent. The IRS determined deficiencies in Mavco Sales' income, declared value excess-profits, and excess profits taxes for the years 1944-1946, which were unpaid. The IRS sought to collect these unpaid taxes from Vendig as a transferee, as she received assets of Mavco Sales.

Procedural History

The Commissioner of Internal Revenue determined a deficiency against Vendig as a transferee. The case was brought before the United States Tax Court. The Tax Court reviewed the stipulated facts and legal arguments. The Tax Court held in favor of the Commissioner.

Issue(s)

1. Whether Vendig is liable as a transferee for the unpaid taxes of Mavco Sales, Inc., due to her receipt of preferred stock in Mavco, Inc., in exchange for her preferred stock in Mavco Sales, Inc.

2. Whether net operating losses of the successor corporation (Mavco, Inc.) could be carried back to offset the tax liability of the dissolved predecessor corporation

(Mavco Sales, Inc.).

Holding

1. Yes, because Vendig received assets of the transferor corporation (Mavco Sales, Inc.) and is thus liable as a transferee.

2. No, because the net operating loss of the successor corporation cannot be used to offset the tax liability of the predecessor.

Court's Reasoning

The court relied heavily on the principles established in *Bates Motor Transport Lines, Inc.* to determine Vendig's liability. The court found that the exchange of stock, the transfer of assets, and the resulting insolvency of Mavco Sales were analogous to the facts in *Bates*. The court reasoned that Vendig received the economic equivalent of assets from Mavco Sales when she received preferred stock in Mavco, Inc. in exchange for her preferred stock in Mavco Sales. The court stated, "We entertain no doubt that petitioner's responsibility for these levies as a recipient of the equivalent of property of the insolvent taxpayer and her liability 'at law or in equity' therefor are necessary to give effect to the overriding purpose and specific language of the transferee provisions." The court also rejected Vendig's argument that the net losses of the successor could be carried back to reduce the tax liability of the predecessor, following the precedent established in *Standard Paving Co.*

Practical Implications

This case is critical for determining transferee liability. It clarifies that shareholders who receive assets from a corporation during a liquidation or reorganization may be liable for the corporation's unpaid taxes, particularly if the transfer renders the corporation insolvent. Legal practitioners should: (1) advise clients of the potential for transferee liability when corporate reorganizations or liquidations are being considered, particularly when debts are outstanding; (2) carefully examine the form of consideration transferred to shareholders during corporate dissolutions; and (3) understand that the IRS can pursue shareholders for tax debts even if the shareholders did not directly receive cash from the transfer. The court's reliance on *Bates* and the denial of loss carry-back also highlight how courts will interpret tax law to prevent avoidance.