Greenberg v. Commissioner, 18 T.C. 547 (1952)

The Tax Court will only consider issues properly raised in the pleadings, not those introduced for the first time in briefs.

Summary

In *Greenberg v. Commissioner*, the Tax Court addressed whether a taxpayer could claim a bad debt deduction. The taxpayer initially claimed a $7,000 bad debt deduction. However, in his brief, he argued that the corporation was a sham, and he should have been allowed to deduct the loss from the sale of the property in 1947. The court determined it would not consider arguments raised for the first time in the brief and that the debt was already worthless before the year in which the deduction was claimed. Thus, the court held for the Commissioner, emphasizing the importance of adhering to issues presented in the initial pleadings.

Facts

Greenberg claimed a $7,000 bad debt deduction on his 1947 tax return. In the assignment of error, Greenberg claimed the Commissioner erred in disallowing the bad debt deduction, stating the $7,000 was a loan to the corporation. However, in his brief, he argued the corporation was a sham, and he suffered a loss on the sale of the real estate in 1947. The charter of the corporation, Warmont, was forfeited in 1941 due to the failure to pay taxes, and the real estate was conveyed to Jersey City in 1947.

Procedural History

The Commissioner disallowed Greenberg's bad debt deduction, leading to a deficiency determination. Greenberg filed a petition with the Tax Court, contesting the Commissioner's determination. The Tax Court heard the case and issued a ruling.

Issue(s)

Whether the Tax Court should consider issues raised for the first time in the taxpayer's brief, rather than in the initial pleadings.

Holding

No, because the court's role is to decide issues raised by the pleadings, not those raised for the first time in briefs.

Court's Reasoning

The court focused on whether the issue of the corporation being a sham could be considered. The court held the issue was not properly raised in the pleadings because the assignment of error addressed a disallowance of a bad debt deduction, which was inconsistent with arguing the corporation was a sham and the loss was on the sale of the real estate. The court cited *Cedar Valley Distillery, Inc., 16 T.C. 870*, which held that the issues for the court to decide are those raised by the pleadings. Even if the pleadings were sufficient, the court found that the debt became worthless before 1947. The court noted the corporate charter was forfeited in 1941, and the property had no value beyond the tax encumbrances. The court held, "Issues which we are called upon to decide in tax cases are those which are raised by the pleadings and not those raised for the first time in briefs."

