***25 T.C. 1219 (1956)***

When commodity futures contracts are traded in distinct units (job lots and round lots) and cleared separately, they are considered separate assets for tax purposes, even if the trader holds simultaneous long and short positions in the same commodity.

**Summary**

In *Maloney v. Commissioner*, the U.S. Tax Court addressed whether a trader could receive long-term capital gains treatment on the sale of commodity futures contracts. The petitioner held simultaneous long and short positions in May soybeans on the Chicago Board of Trade. One position was in job lots (1,000-bushel units), and the other was in round lots (5,000-bushel units). The court held that, because job lots and round lots were traded separately, with different rules and economic realities, they were distinct assets for tax purposes. Therefore, the petitioner's long-term capital gains treatment on the job lot transactions was upheld. The court also considered the addition of tax for failure to file a declaration of estimated tax.

**Facts**

Joseph Maloney, a grain futures broker, established simultaneous long and short positions in May soybeans on August 11, 1949. He purchased 50,000 bushels in job lots and sold 50,000 bushels in round lots. The trading occurred on the Chicago Board of Trade, which had separate accounting and clearing processes for job lots and round lots. Maloney closed out his short position in round lots between November 1949 and February 1950, but maintained his long position in job lots, closing it out on April 25, 1950. The IRS determined the transactions should be offset and denied long-term capital gains treatment.

**Procedural History**

The Commissioner of Internal Revenue determined a deficiency in income tax and an addition to tax for failure to file a declaration of estimated tax. The taxpayers challenged this determination in the U.S. Tax Court.

**Issue(s)**

1. Whether the petitioner is entitled to long-term capital gains treatment on the purchase and sale of job lots of May soybeans, where the contracts were held for more than six months, despite simultaneous round-lot transactions in the same commodity.

2. Whether the petitioners are subject to additions to the tax for failing to file a declaration of estimated tax for 1950.

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## Holding

1. Yes, because the job-lot transactions were distinct and separate for tax purposes, the petitioner was entitled to treat the job lot transactions as long-term capital gains.

2. Yes, because the failure to file an estimated tax return was not due to reasonable cause.

## Court's Reasoning

The court focused on the distinct nature of the job lot and round lot contracts, noting that trading in each type was separate, governed by different rules, and served different economic purposes. The court referenced Mim. 6243, a Bureau of Internal Revenue ruling, which stated that offsetting trades in the same commodity in the same market were closed as of the offsetting trade, but distinguished the Maloney case from the ruling's scope. The court cited the Secretary of Agriculture's recognition of the difference between job lots and round lots and that their trading was not considered fictitious. The court stated, "...we are convinced that the respondent's determination is erroneous." The court found that the separate clearing and accounting procedures on the Chicago Board of Trade, and the differing rules and charges, showed true economic significance. The court concluded that the job lot contracts were separate capital assets. The court also ruled that the petitioners' failure to file a declaration of estimated tax was not due to reasonable cause and upheld the additions to tax.

## Practical Implications

This case is significant in tax law because it clarifies the treatment of commodity futures contracts when traded in distinct units. It emphasizes that the economic reality of the trading market, and the rules and practices in place, can dictate the tax treatment. Lawyers and tax professionals should consider the specific market rules and clearing processes when advising clients on the tax implications of commodity futures transactions. The case further highlights the importance of understanding the substance over form doctrine. Note that the court noted that it did not decide whether, after September 23, 1950 (the effective date of Section 117 (l) of the 1939 Code) the same transactions would be entitled to short-term or long-term capital gain treatment.

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