***Times-Democrat Publishing Co. v. Commissioner*, 29 T.C. 933 (1958)**

Competition within the newspaper publishing business is a common, not temporary or unusual economic circumstance, and does not qualify for relief under tax regulations concerning depressed earnings.

Summary

The Times-Democrat Publishing Co. sought tax relief under Section 722(b)(2) of the Internal Revenue Code, claiming that the entry of a competing newspaper, the Tri-City Star, into the Davenport, Iowa, market temporarily depressed its earnings. The Tax Court held that competition, particularly in the newspaper business, is a standard economic circumstance, not an unusual or temporary one, and therefore does not qualify a business for tax relief under the specified section. The court found that competition is the 'very essence of our capitalistic system' and, thus, not an unusual economic circumstance even if intense or potentially unfair. The ruling emphasized that temporary economic circumstances are relative and depend on their character and nature, not necessarily their duration.

Facts

The Times-Democrat Publishing Co. and another related company experienced depressed earnings in 1936 after a new newspaper, the Tri-City Star, began publishing. The petitioners contended that the competition from the Tri-City Star, which published from 1935 to 1937, caused a decrease in their advertising revenue and circulation, and hindered their ability to raise subscription rates. They sought tax relief under Section 722(b)(2) of the Internal Revenue Code, claiming the competition was an unusual, temporary economic circumstance that depressed their earnings. The Tri-City Star's operation ceased in March 1937.

Procedural History

The case was brought before the United States Tax Court. The petitioners argued for tax relief based on depressed earnings due to competition. The Commissioner of Internal Revenue denied the relief, leading to the Tax Court's review. The Tax Court ultimately sided with the Commissioner.

Issue(s)

Whether the competition from the Tri-City Star constituted a "temporary economic circumstance unusual" as contemplated by Section 722(b)(2) of the Internal Revenue Code, thereby entitling the petitioners to tax relief.

Holding

No, because the Court held that competition, especially in the newspaper business, is not a temporary or unusual economic circumstance.

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Court’s Reasoning

The Court reasoned that the presence of competition, particularly in the business of newspaper publishing, is common, not unusual. It cited the case of *Constitution Publishing Co.* as precedent, which involved similar claims of unfair competition from a rival newspaper. The Court emphasized that for tax relief under Section 722(b)(2), the economic circumstance must be both temporary and unusual. The Court found that the competition was not an unusual circumstance. The Court quoted from *Lamar Creamery Co.* stating that “Competition is present in almost any business. Instead of it being something unusual, it is quite common. It is of the very essence of our capitalistic system.” The Court acknowledged that temporary is a relative term, but the nature of the circumstance must also be unusual, which competition, in general, is not. The Court also stated that the petitioners did not satisfy the requirements for relief under section 722(b)(5).

Practical Implications

This case sets a precedent for businesses seeking tax relief due to economic downturns caused by competition. It clarifies that standard market competition is not a qualifying factor for relief under Section 722(b)(2). Attorneys should advise clients that establishing “unusual” circumstances requires more than just proving the presence of competition. When analyzing similar tax claims, legal professionals must focus on whether the economic circumstances were of an unusual nature, not just whether they caused financial hardship. Businesses need to document and establish any unique factors influencing their earnings decline, beyond normal competition. This ruling is critical for businesses operating in competitive industries, as it limits the availability of tax relief based on standard market dynamics. Later cases, particularly in tax law, would likely cite this case to distinguish between normal and extraordinary business conditions when considering claims of economic hardship.

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