Rothbart v. Commissioner, 26 T.C. 694 (1956)

To claim a net operating loss carryback or carryover, a taxpayer must demonstrate that the loss was attributable to a 'trade or business' regularly carried on by them, and isolated transactions do not qualify.

Summary

Irving Rothbart, a CPA, invested heavily in an oil venture based on fraudulent misrepresentations. After discovering the fraud, Rothbart settled with the seller, resulting in a significant loss. He attempted to claim a net operating loss carryback and carryover for the loss. The Tax Court held that Rothbart's investments and subsequent settlement did not constitute a 'trade or business' regularly carried on by him, but rather were isolated transactions. Therefore, the loss could not be treated as a net operating loss under Section 122 of the 1939 Internal Revenue Code.

Facts

Irving Rothbart, a CPA, was persuaded by a client to invest in an oil venture in Mississippi. Between December 1948 and January 1950, Rothbart and his wife invested $95,500 in interests in an oil well and mineral leases. They later learned they were victims of a fraudulent scheme. In August 1950, they returned to Chicago. In 1951, they settled with the seller, Vasen, reconveying their interests for $36,048, resulting in a loss of $57,655.40. Rothbart claimed this loss as a net operating loss carryback to 1950 and carryover to 1952 under Section 23(s) and 122 of the 1939 Code.

Procedural History

The case originated in the Tax Court. The Commissioner of Internal Revenue disallowed Rothbart's claimed net operating loss deduction. The Tax Court considered the case based on the stipulated facts, focusing on whether Rothbart's activities constituted a