Philber Equipment Corp. v. Commissioner, 26 T.C. 1104 (1956)

To qualify for capital gains treatment under I.R.C. § 117(j), property must be "used in the trade or business" and not held "primarily for sale to customers in the ordinary course of [the] trade or business."

Summary

The case concerns a car dealership, Philber Equipment Corp., and its tax treatment of gains from vehicle sales. The central issue is whether certain vehicles, including those used by officers, department heads, and new car salesmen, were "property used in the trade or business" under I.R.C. § 117(j), thus eligible for capital gains treatment, or whether they were primarily held for sale in the ordinary course of business and ineligible. The Tax Court differentiated between vehicles used in the dealership's operations (and thus eligible for capital gains treatment) and those held primarily for sale. The Court also addressed the deductibility of compensation paid to the president's wife and other business expenses.

Facts

Philber Equipment Corp. sold new and used cars. The case involved the tax treatment of gains from sales of several types of vehicles, including:

- Vehicles assigned to company officers, department heads, and new car salesmen.
- Vehicles used by the parts and service departments.
- Vehicles used as

