29 T.C. 360 (1957)

A loss sustained from the abandonment of permanent improvements affixed to leased business property is not attributable to the operation of a business "regularly carried on" if it results from the liquidation of the business, and therefore cannot be carried forward as a net operating loss deduction.

Summary

The United States Tax Court considered whether a loss sustained by taxpayers from the abandonment of improvements to leased business property could be carried forward as a net operating loss deduction. The taxpayers operated a restaurant which failed, leading them to abandon their lease and the associated improvements. The court held that while the loss was related to the taxpayers' business, it was not attributable to the regular operation of that business, as it stemmed from the liquidation of the business. Thus, it could not be carried forward as a net operating loss under Section 122(d)(5) of the 1939 Internal Revenue Code.

Facts

Gus and Helen Corey opened a restaurant in Las Vegas, Nevada, in April 1952, on subleased premises. They spent over $26,000 on permanent, immovable improvements. The business was unsuccessful and closed in early December 1952, with rent unpaid. The sublessor terminated the lease in February 1953, and the improvements reverted to the sublessor. In their 1952 tax return, the Coreys claimed a loss from the business, including a "Lease abandonment loss." They filed a claim for refund for 1951, attempting to carry back the 1952 loss to offset their 1951 income. For 1953, they claimed a net operating loss carryover. The IRS disallowed the carryover, asserting that the loss did not qualify under the net operating loss provisions.

Procedural History

The case originated in the United States Tax Court after the IRS disallowed the Coreys' net operating loss carryover deduction. The Coreys sought review in the Tax Court, which considered the stipulated facts and the legal arguments regarding the nature of the loss and its eligibility for net operating loss treatment. The Tax Court sided with the IRS and entered a decision under Rule 50.

Issue(s)

1. Whether the loss sustained from the abandonment of permanent improvements to leased business property was attributable to the operation of a trade or business "regularly carried on" by the taxpayers.

Holding

© 2025 SCOTUSreports.com. All rights reserved.

1. No, because the loss resulted from the liquidation of the restaurant business rather than its regular operation.

Court's Reasoning

The court examined whether the loss qualified as a net operating loss under Section 122 of the 1939 Internal Revenue Code. Section 122(d)(5) excludes deductions not attributable to a business "regularly carried on." The court distinguished the loss from the unrecovered basis of the improvements, which is typically deductible in the year the lease is terminated. However, the court found that the loss was an isolated transaction connected to the total liquidation of the business, which is "the exact antithesis of the normal operation of a business regularly carried on." The court referenced prior case law and policy, stating that the net operating loss deduction was intended to give relief for losses during a year of depression in an established business, not for isolated losses. The court emphasized that the loss was a consequence of ending business operations, not an ordinary business expense. As Judge Forrester stated, "This loss is clearly traceable to the operation of petitioners' business. It is, however, not attributable to the operation of a business 'regularly carried on' by the petitioners."

Practical Implications

This case is significant for its clarification of what constitutes a loss attributable to the "operation of a trade or business regularly carried on" for the purposes of net operating loss deductions. Attorneys should consider this case when analyzing whether losses from business closures, abandonment of assets, or similar events can be treated as net operating losses. It underscores that losses related to the liquidation of a business, even if directly connected to the business, may be ineligible for net operating loss treatment. The decision highlights the importance of distinguishing between losses that arise from the ongoing conduct of a business and those that arise from the termination of a business. This case influenced future interpretations of what constitutes a "regularly carried on" business for tax purposes. Later cases dealing with business losses often cite this precedent when determining the deductibility of losses related to business liquidations and the scope of the net operating loss provisions.

Meta Description

The Corey case clarifies that losses from business liquidations or asset abandonments are not "regularly carried on" business losses and cannot be treated as net operating losses for tax purposes.

Tags

Corey v. Commissioner, Tax Court, 1957, Net Operating Loss, Business Liquidation, Lease Abandonment, Tax Deduction

© 2025 SCOTUSreports.com. All rights reserved.