30 T.C. 452 (1958)

The nonrecognition of gain on the sale of a residence, as provided by the Internal Revenue Code, requires that the property sold be used as the taxpayer's principal residence at the time of sale, and the property sold must be considered the taxpayer's principal residence after the effective date of the applicable section of the code.

Summary

The case concerns the nonrecognition of capital gains from the sale of a residence under section 112(n)(1) of the Internal Revenue Code of 1939. The Bogleys sold their home and a portion of the surrounding land in 1950 and the remaining land in 1951. The IRS determined that the gain from the 1951 sales was taxable, arguing that the 10 acres of land sold were not used as the Bogleys' principal residence at the time of sale. The Tax Court agreed with the IRS, focusing on the effective date of the relevant statute and the fact that the Bogleys did not reside on the property at the time of the 1951 sales. The court held that since the 10 acres were sold after the effective date and were not the Bogleys' residence at the time of sale, the gain was taxable.

Facts

In 1939, Samuel and Anita Bogley purchased 13 acres of land and constructed a home. They resided there until December 1, 1950, when they bought a new home near Rockville, Maryland. On the same day, they sold their original home and 3 acres to a buyer. In 1951, they sold the remaining 10 acres in two separate transactions, 5 acres in June, and 5 acres in August. The Bogleys reported a capital gain from the sale of their original home and 3 acres on their 1950 return. They did not report the proceeds from the sale of the 10 acres in their 1951 return.

Procedural History

The Commissioner of Internal Revenue determined a deficiency in the Bogleys' income tax for 1951, claiming that they realized a taxable capital gain from the sale of the 10 acres. The Bogleys contested this determination in the United States Tax Court.

Issue(s)

Whether the gains derived from the 1951 sales of the 10 acres are entitled to nonrecognition of gain under section 112(n)(1) of the Internal Revenue Code of 1939.

Holding

No, because section 112(n)(1) did not apply to the 1951 sales of the 10 acres

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because the Bogleys did not reside on this property after the effective date and, therefore, the 10 acres were not considered their principal residence at the time of sale.

Court's Reasoning

The court's decision turned on the interpretation of section 112(n)(1) and the effective date provision in the Revenue Act of 1951. Section 112(n)(1) states that nonrecognition of gain applies if an "old residence" is sold and a "new residence" is purchased and used within a specified time frame. The effective date of this section was January 1, 1951. The court reasoned that because the Bogleys sold their original home and 3 acres in 1950 before the effective date, and the remaining 10 acres were not considered the Bogleys' principal residence at the time of sale, they were not entitled to nonrecognition. The court held that the 10 acres of land sold in 1951 were not part of the Bogley's principal residence.

The court emphasized that the statute requires the sold property to be the taxpayer's principal residence for the nonrecognition to apply. "Since section 318 (c) of the Revenue Act of 1951 specifically provides that 'section 112 (n) (1) * * * shall apply only with respect to residences sold * * * after' December 31, 1950, and since after that date petitioners sold only unimproved land upon which they did not reside, we must conclude that the sales of this acreage made in 1951 were not sales of petitioners' 'principal residence' or 'old residence' to which section 112 (n) (1) was applicable."

A dissenting opinion argued that the 10 acres should be considered part of the

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