30 T.C. 1215 (1958)

Under Internal Revenue Code Section 112(b)(10), a corporate reorganization is tax-free even if the transferor doesn't transfer "all or substantially all" of its property, as long as the transfer meets the requirements of the statute, including the continuity of interest test.

Summary

The San Antonio Transit Company (taxpayer) sought to determine the tax basis of the Smith-Young Tower building it acquired in a corporate reorganization. The Commissioner argued that the reorganization was not tax-free and that the basis should be the cost to the taxpayer. The Tax Court examined whether the reorganization qualified under Section 112(b)(10) of the Internal Revenue Code of 1939. The court held that the transfer of the Tower building qualified as a tax-free reorganization, concluding that the requirement of transferring "property of a corporation" did not require a transfer of all or substantially all assets, that the exchange was solely for stock, and that the continuity of interest requirement was satisfied. As a result, the taxpayer was entitled to use the predecessor's basis for depreciation and capital calculations.

Facts

Smith Brothers Properties Company (the old corporation) owned the Smith-Young Tower building. The old corporation had substantial debt secured by the building and other properties. A protective committee was formed by the Tower building bondholders. The old corporation defaulted on other debts, and its properties were taken over by creditors. A foreclosure suit was filed against the Tower building. A reorganization plan was approved, and the Tower building was sold to a nominee of the bondholders' committee. The taxpayer, Smith-Young Tower Corporation, was organized to effectuate the reorganization and acquired the Tower building in exchange for its stock. The old corporation executed a quitclaim deed to all property transferred to the taxpayer. The taxpayer later sold the Tower building, leading to the tax dispute over its basis.

Procedural History

The San Antonio Transit Company filed suit in the United States Tax Court contesting the Commissioner's determination of tax deficiencies. The case was submitted based on stipulated facts. The Tax Court examined whether the reorganization qualified for nonrecognition of gain or loss under Section 112(b)(10) of the Internal Revenue Code of 1939.

Issue(s)

1. Whether the transfer of the Tower building to the taxpayer met the requirement that the taxpayer acquired "property of a corporation" under I.R.C. § 112(b)(10),

© 2025 SCOTUSreports.com. All rights reserved.

even though the transfer did not involve “all or substantially all” of the old corporation’s assets.

2. Whether the Tower building was acquired by the taxpayer “solely” in exchange for its stock or securities, as required by I.R.C. § 112(b)(10), where cash was indirectly involved in the transaction.

3. Whether the corporate reorganization preserved the requisite “continuity of interest” between the old corporation and the taxpayer as required by I.R.C. § 112(b)(10).

Holding

1. Yes, because the statute only required “property” not “all or substantially all”.

2. Yes, because the cash involved originated from a third party, not the taxpayer.

3. Yes, because the continuity of interest test for Section 112(b)(10) reorganizations was satisfied in the transfer.

Court’s Reasoning

The court first addressed whether the transfer met the “property of a corporation” requirement. It reasoned that the statute did not include the terms “all or substantially all” and found no basis to read such a requirement into the statute. The court noted that the statute specified “property” and that this could mean all or any part. The court further distinguished the language of I.R.C. § 112(g), which requires that “substantially all the properties” be transferred, whereas I.R.C. § 112(b)(10) is explicitly excepted from such requirement. The court held that this meant a transfer of “all or any part” satisfied the property requirement.

The court then considered whether the exchange was solely for stock or securities. While cash changed hands in the transaction, the court found that cash originated with a third party, not the taxpayer, and that the petitioner issued only its stock in consideration for the transfer of the Tower building. Because of the origins of the cash and the fact that the petitioner did not assume any debt associated with the exchange, the court found this requirement was met. The court distinguished the case from *Helvering v. Southwest Corp.*, where the acquiring corporation assumed a cash obligation.

Finally, the court addressed the continuity of interest requirement. The court distinguished the test under I.R.C. § 112(b)(10) from the more rigid requirements of I.R.C. § 112(g). The court concluded that the bondholders had a continuing interest in the new corporation. The court emphasized that Section 112(b)(10) was enacted to provide relief and therefore continuity of interest should be construed more flexibly in the context of reorganizations of insolvent corporations. The court noted the old corporation’s stockholders had been eliminated by the insolvency

© 2025 SCOTUSreports.com. All rights reserved.

proceedings and creditors stepped into their shoes.

Practical Implications

This case provides important guidance on the application of the nonrecognition rules in I.R.C. § 112(b)(10). Lawyers should note that it is not necessary to transfer "all or substantially all" of the transferor's assets in a reorganization under Section 112(b)(10). This is critical in bankruptcy and insolvency reorganizations, where the focus is on resolving debt and restructuring the enterprise. The case also emphasizes the importance of carefully structuring transactions to ensure that the consideration paid by the acquiring corporation consists solely of stock or securities and that cash comes from a third party. Finally, the case demonstrates a more flexible interpretation of the "continuity of interest" requirement when an insolvent company is reorganized. Lawyers should note that this test is less rigorous for reorganizations under I.R.C. § 112(b)(10) than for reorganizations under I.R.C. § 112(g). The case provides support for the proposition that reorganizations of insolvent corporations can be structured to allow for the preservation of tax attributes of the old corporation in some circumstances. The ruling's treatment of continuity of interest in the context of an insolvency reorganization is important for similar cases.

© 2025 SCOTUSreports.com. All rights reserved.