Herman L. Rubin v. Commissioner, 29 T.C. 115 (1957)

For a debt to qualify as a business bad debt, the taxpayer's lending activities must be sufficiently frequent and continuous to constitute a separate business, distinct from the business of the corporation to which the funds were advanced.

Summary

The case concerns whether advances made by a taxpayer to a corporation in which he held stock constituted business bad debts, deductible in full against ordinary income, or non-business bad debts, deductible only as short-term capital losses. The Tax Court held that the advances were not business bad debts because the taxpayer's lending activity was not sufficiently extensive to constitute a separate business. The court emphasized that the business of the corporation is not the business of the shareholder. The court examined the nature of the taxpayer's investment, frequency of the transactions, and the relationship of the advances to the taxpayer's primary business to determine whether a separate lending business existed. This case is critical for understanding the narrow scope of what qualifies as a business bad debt deduction.

Facts

Herman L. Rubin, the taxpayer, was primarily engaged in the school bus business. Over time, he also invested in, or advanced money to, other businesses. Rubin made advances to H & K, a clothespin manufacturer, in which he was a stockholder. The advances were made to address the company's lack of working capital. No formal loan documents were issued, and interest was not accrued on the advances. Rubin sought to deduct these advances as business bad debts when H & K failed. He argued that his activities in promoting, lending to, and financing corporate ventures constituted a separate business.

Procedural History

The Commissioner of Internal Revenue disallowed Rubin's deduction of the losses as business bad debts. Rubin petitioned the Tax Court, arguing the losses were business bad debts, and the Tax Court agreed with the Commissioner, holding for the respondent and denying the claimed business bad debt deduction.

Issue(s)

1. Whether the advances to H & K were genuine loans or risk capital investments.

2. Whether, assuming the advances were loans, they qualified as

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