33 T.C. 706 (1960)

Under the Internal Revenue Code of 1939, a shareholder seeking preferential tax treatment on liquidation gains must file a timely election, but such treatment is unavailable unless shareholders owning at least 80% of the corporation's stock also file timely elections.

Summary

Virginia E. Ragen and another shareholder each owned 50% of Peninsular Development and Construction Company, Inc. The corporation adopted a plan of complete liquidation, and Ragen filed an election to have her gain taxed under Section 112(b)(7) of the 1939 Internal Revenue Code. The other shareholder did not file a timely election. The Tax Court held that Ragen was not entitled to the preferential tax treatment because the statute required elections from shareholders owning at least 80% of the stock. Since only 50% of the stock had elections filed, the condition was not met, and Ragen's election was invalid regardless of its timeliness.

Facts

Virginia E. Ragen and Patricia Brophy each owned one-half of the common stock of Peninsular Development and Construction Company, Inc. On November 25, 1952, the stockholders adopted a resolution for complete liquidation to occur in December 1952. Ragen's adjusted basis in the stock was $10,483.61, and the value of the property distributed to her in liquidation was $68,373.90. Both Ragen and Brophy executed Form 964 for election under Section 112(b)(7). Ragen mailed her form on December 25, 1952, which was received by the Bureau of Internal Revenue on January 2, 1953. Brophy did not file her election within the required 30 days. Ragen reported a small taxable dividend on her 1952 tax return, but not the full gain from the liquidation.

Procedural History

The Commissioner of Internal Revenue determined a deficiency in Ragen's income tax, arguing that she was not entitled to the benefits of Section 112(b)(7). Ragen challenged this determination in the U.S. Tax Court.

Issue(s)

Whether Ragen was entitled to the benefits of Section 112(b)(7) of the Internal Revenue Code of 1939.

Holding

No, because the statute's requirements, including that shareholders holding at least 80% of the corporation's stock file timely elections, were not met.

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Court’s Reasoning

The court determined that the plain language of Section 112(b)(7) indicates that its benefits are not available to any shareholder unless timely elections are filed by the holders of at least 80% of the stock. The other shareholder, owning 50% of the stock, did not file an election within the statutory timeframe. The court found it unnecessary to decide the timeliness of Ragen’s election because even if her election was timely, it did not meet the statutory requirement. The court referenced Section 112(b)(7)(C)(i), which specified that in cases of shareholders other than corporations,

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