Ivey v. Commissioner, 52 T. C. 76 (1969)

A taxpayer cannot claim a demolition deduction if the intent to demolish a building exists at the time the property is acquired.

Summary

In Ivey v. Commissioner, the petitioners, shareholders of a corporation that owned a multi-family residence, acquired the property through a section 333 liquidation with the intent to demolish the building and construct an office. The Tax Court ruled that because the petitioners intended to demolish at the time of acquisition, they could not claim a demolition deduction. The court clarified that the relevant intent was that of the shareholders at acquisition, not the corporation's intent when it originally purchased the property. This decision underscores the principle that the entire purchase price should be allocated to the land when demolition is intended at acquisition, precluding any deduction for the building's demolition.

Facts

The 168 Mason Corp. and Greenwich Title Co. Inc. owned properties at Mason Street, Greenwich, Connecticut. The petitioners, Arthur R. Ivey, Robert C. Barnum, Jr. , and Edwin J. O'Mara, Jr. , were shareholders in these corporations. In 1959, Greenwich Title Co. Inc. purchased property at 170-172 Mason Street, which included a multi-family residence. In 1963, both corporations adopted resolutions for complete liquidation and dissolution under section 333 of the Internal Revenue Code. On June 5, 1963, the petitioners received the property as tenants in common and formed a partnership, the Mason Co. , to manage it. They demolished the building shortly after acquisition, intending to construct an office building. The partnership claimed a demolition deduction of $31,617. 73, which the IRS disallowed.

Procedural History

The IRS determined deficiencies in the petitioners' 1963 income tax returns due to the disallowed demolition deduction. The petitioners challenged this in the U. S. Tax Court, which consolidated the cases. The court heard the case and ruled on April 16, 1969.

Issue(s)

1. Whether a taxpayer can claim a demolition deduction for a building demolished after acquisition when the intent to demolish existed at the time of acquisition through a section 333 liquidation?

Holding

1. No, because the intent to demolish the building at the time of acquisition

precludes a demolition deduction. The court held that the petitioners' intent at the time they acquired the property was controlling, not the corporation's intent when it originally purchased the property.

Court's Reasoning

The court applied the well-established rule that if the intent to demolish exists at the time of property acquisition, no deduction can be claimed for the demolition. This rule stems from the principle that the building has no value to the purchaser intending to demolish it, so the entire purchase price is allocated to the land. The court rejected the petitioners' argument that the corporation's intent when it bought the property should control, emphasizing that the relevant intent was that of the shareholders at the time of the liquidation. The court cited Liberty Baking Co. v. Heiner and Lynchburg National Bank & Trust Co. to support this rule. Additionally, the court clarified that a section 333 liquidation is treated as a purchase by the shareholder, and the shareholder's intent at acquisition governs the availability of a demolition deduction.

Practical Implications

This decision impacts how taxpayers should analyze potential demolition deductions in similar situations. It reinforces that the intent to demolish at the time of acquisition, regardless of the method of acquisition, precludes a deduction. Legal practitioners must carefully assess clients' intentions at the time of property acquisition to advise on the tax implications of demolitions. This ruling may affect real estate transactions where the intent to demolish is a factor, as it underscores the need to allocate the entire purchase price to the land if demolition is planned. Subsequent cases like N. W. Ayer & Son, Inc. have distinguished this ruling by focusing on the continuity of basis in different tax contexts.