A. T. Newell Realty Co. v. Commissioner, 55 T. C. 146 (1970)

A condemnation proceeding that vests title in the condemnor before a corporation adopts a plan of liquidation results in a taxable gain outside the non-recognition provisions of IRC section 337(a).

Summary

In A. T. Newell Realty Co. v. Commissioner, the Tax Court ruled that a corporation's property sale to the Urban Redevelopment Authority through condemnation was a taxable event that occurred before the company adopted a liquidation plan, thus not qualifying for non-recognition of gain under IRC section 337(a). The case hinged on when the sale legally occurred, with the court determining that the condemnation vested title in the Authority on May 7, 1965, before the August 21, 1965, adoption of the liquidation plan. The court rejected the corporation's arguments that its cash basis accounting method or alleged defects in the condemnation process should alter this outcome, emphasizing that the timing of the sale was determined by the transfer of title and not by accounting practices or later negotiations.

Facts

A. T. Newell Realty Co. , a Pennsylvania corporation, owned property condemned by the Urban Redevelopment Authority of Bradford, PA, on May 4, 1965. The Authority filed a declaration of taking and offered $160,000 on May 7, 1965. The corporation did not object to the condemnation and, following negotiations, accepted $175,000 on August 21, 1965. On the same day, shareholders voted to liquidate the company, which was completed within a year. The IRS asserted a tax deficiency, claiming the gain from the condemnation sale was not exempt under IRC section 337(a) because the sale occurred before the liquidation plan was adopted.

Procedural History

The IRS assessed a tax deficiency against A. T. Newell Realty Co. for 1965. The corporation and its transferee trustees petitioned the Tax Court for a redetermination, arguing the gain should not be recognized under IRC section 337(a). The Tax Court upheld the IRS's position, ruling that the condemnation constituted a sale before the liquidation plan was adopted.

Issue(s)

1. Whether the condemnation of the corporation's property by the Urban Redevelopment Authority on May 7, 1965, constituted a sale under IRC section 337(a) before the adoption of the liquidation plan on August 21, 1965.

Holding

1. Yes, because the condemnation vested title in the Authority on May 7, 1965,

which was before the corporation adopted its liquidation plan on August 21, 1965, making the sale taxable and not qualifying for non-recognition under IRC section 337(a).

Court’s Reasoning

The court applied Pennsylvania’s Eminent Domain Code, which states that title passes to the condemnor upon filing the declaration of taking. The court held that the condemnation on May 7, 1965, was a sale under IRC section 337(a) because it transferred title to the Authority. The court rejected the corporation’s arguments that its cash basis accounting method should delay the timing of the sale, stating that the timing of the sale is determined by the transfer of title, not accounting practices. The court also dismissed claims that the condemnation was defective or abandoned, noting the corporation’s acceptance of the condemnation in its shareholder notice. The court cited precedent like Covered Wagon, Inc. v. Commissioner, which supported the view that condemnation constitutes a sale at the time title vests in the condemnor. The court emphasized that IRC section 337(a) requires the sale to occur within 12 months after adopting the liquidation plan, which was not the case here.

Practical Implications

This decision clarifies that for tax purposes, a condemnation that vests title in the condemnor is considered a sale at the time of vesting, regardless of subsequent negotiations or the taxpayer’s accounting method. Attorneys should advise corporate clients to adopt a liquidation plan before any potential condemnation to ensure gains qualify for non-recognition under IRC section 337(a). The ruling also impacts how similar cases involving eminent domain and corporate liquidation are analyzed, emphasizing the need to consider the timing of title transfer rather than payment or accounting recognition. This case has been cited in subsequent cases dealing with the timing of sales in the context of liquidation and condemnation, reinforcing the principle that the legal transfer of title determines the tax event.

