S. & B. Realty Co. v. Commissioner, 54 T. C. 863 (1970)

A property sale under the threat of condemnation qualifies for nonrecognition of gain under IRC section 1033 if the owner faces alternatives that include condemnation.

Summary

S. & B. Realty Co. sold property within an urban renewal area, facing alternatives of improving the property, selling to a third party who would improve it, selling to the urban renewal agency, or facing condemnation. The Tax Court held that the sale was under the threat of condemnation, thus qualifying for nonrecognition of gain under IRC section 1033. Additionally, the court found the compensation paid to the controlling shareholder was reasonable and determined the proper depreciation for certain furnishings, impacting the company's tax deductions.

Facts

Samuel Goldberg owned a property in Louisville, Kentucky, designated as conservable within an urban renewal area. He was given four alternatives: improve the property according to the agency's specifications, sell it to a third party who would make the improvements, sell it to the urban renewal agency, or face condemnation. In early 1963, Goldberg was informed that his property was appraised at $62,500 and could be sold to the agency at that price. Before receiving detailed repair costs, he sold the property to Brown Bros. Realty, Inc. for $70,388. 50. The proceeds were used to purchase two apartment buildings, which were later transferred to S. & B. Realty Co. in exchange for stock.

Procedural History

The Commissioner of Internal Revenue determined deficiencies in the income tax returns of Samuel and Bess Goldberg and S. & B. Realty Co. The cases were consolidated for trial before the United States Tax Court, which decided in favor of the taxpayers on the issue of nonrecognition of gain due to threat of condemnation and on the reasonableness of compensation paid to Samuel Goldberg. The court also adjusted the depreciation allowance for certain furnishings owned by S. & B. Realty Co.

Issue(s)

1. Whether the sale of property by Samuel Goldberg was under the threat or imminence of condemnation, qualifying for nonrecognition of gain under IRC section 1033?
2. Whether the compensation paid by S. & B. Realty Co. to its controlling shareholder, Samuel Goldberg, was reasonable, thus deductible under IRC section 162(a)(1)?
3. What was the proper salvage value and allocable cost of certain furnishings for

© 2025 SCOTUSreports.com. All rights reserved.

purposes of computing allowable depreciation under IRC section 167?

Holding

1. Yes, because the sale was made under the threat of condemnation as the owner faced alternatives including condemnation, and the sale met the criteria for nonrecognition of gain under IRC section 1033.
2. Yes, because the compensation paid to Samuel Goldberg was reasonable given his extensive duties and responsibilities, thus deductible under IRC section 162(a)(1).
3. The court determined the proper salvage value and allocable cost of the furnishings, adjusting the depreciation deduction claimed by S. & B. Realty Co. under IRC section 167.

Court's Reasoning

The court interpreted IRC section 1033 liberally, finding that the threat of condemnation compelled Goldberg to sell his property, even though he had alternatives. The court emphasized that the statute does not require the possibility of condemnation to be a certainty, only that there must be an indication of an impending undesirable consequence, which was present in this case. The court cited *S. H. Kress & Co.* as precedent where a similar situation was ruled in favor of the taxpayer. For the second issue, the court found that Samuel Goldberg's compensation was reasonable based on his extensive involvement in the company's operations, despite the presence of a managing agent. On the third issue, the court adjusted the salvage value and cost of the furnishings based on their age and condition, impacting the depreciation deduction under IRC section 167.

Practical Implications

This decision clarifies that a property owner facing alternatives including condemnation can still qualify for nonrecognition of gain under IRC section 1033 if the sale is motivated by the threat of condemnation. It impacts how real estate transactions within urban renewal areas should be analyzed for tax purposes. The ruling on compensation underscores the importance of documenting the roles and responsibilities of corporate officers to support deductions for their salaries. The depreciation ruling illustrates the need for careful valuation of used assets for tax purposes. This case has been cited in subsequent decisions involving similar issues, reinforcing its significance in tax law.

© 2025 SCOTUSreports.com. All rights reserved.