***Toledo TV Cable Co. v. Commissioner, 55 T. C. 1107 (1971)***

An intangible asset like a municipal franchise for CATV does not qualify for depreciation if its useful life cannot be determined with reasonable accuracy.

**Summary**

Toledo TV Cable Co. and Newport TV Cable Co. sought to depreciate the costs of their municipal CATV franchises, claiming that the franchises had determinable useful lives. The IRS denied the deductions, arguing that future renewals were reasonably probable, rendering the franchises' lives indeterminate. The Tax Court agreed with the IRS, finding that the companies failed to prove that their franchises would not be renewed indefinitely. The decision hinged on the fact that the companies anticipated renewals when purchasing the franchises and that the new franchises obtained were substantially similar to the original ones.

**Facts**

Siegenthaler and Elkins purchased the assets of Mac's Television & Electronics (Toledo) and the stock of Magee Television Co. , Inc. (Newport) in 1962, which included CATV franchises. Both franchises were nonexclusive and initially set to expire within 10 years, with Toledo having an option to renew for another 10 years. The companies later sought to renew or extend these franchises, facing some opposition but ultimately securing new franchises with similar terms to the originals. The companies claimed depreciation on the franchise costs, which the IRS disallowed, leading to the Tax Court case.

**Procedural History**

The IRS issued notices of deficiency to Toledo and Newport for the tax years 1963-1966, disallowing depreciation deductions for the franchise costs. The companies petitioned the U. S. Tax Court, which consolidated the cases. The court heard arguments and reviewed evidence before issuing its decision in 1971.

**Issue(s)**

1. Whether the municipal CATV franchises held by Toledo and Newport had determinable useful lives, allowing for depreciation deductions under section 167(a) of the Internal Revenue Code of 1954.

**Holding**

1. No, because the petitioners failed to prove that it was not reasonably probable that the franchises would be renewed indefinitely, thus rendering their useful lives indeterminate.

**Court's Reasoning**

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The court applied the rule that an intangible asset is depreciable only if its useful life can be estimated with reasonable accuracy. It found that the companies' actions, such as purchasing the franchises with terms extending beyond the franchise periods and later investing in rebuilding the systems, indicated an expectation of future renewals. The court also considered the negotiations for new franchises, which resulted in extensions with terms substantially similar to the originals. The opposition faced during these negotiations was not deemed significant enough to suggest that renewals were unlikely. The court concluded that the companies did not meet their burden of proving that the franchises would not be renewed indefinitely, thus supporting the IRS's determination that the franchises had indeterminate useful lives.

**Practical Implications**

This decision underscores the importance of proving a determinable useful life for intangible assets to qualify for depreciation. Taxpayers seeking to depreciate franchise costs must demonstrate that renewals are not reasonably probable. The case highlights that even if a franchise has a stated term, the possibility of indefinite renewals can render it non-depreciable. Practitioners should carefully analyze the likelihood of franchise renewals based on historical practices, negotiations, and the terms of any new franchises obtained. This ruling may affect how similar cases are analyzed, particularly in industries relying on municipal franchises, and could influence business decisions regarding investments in franchise-based operations.

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