

## ***Axelrod v. Commissioner, 56 T. C. 248 (1971)***

A taxpayer must prove all elements of a casualty loss, including that the loss was caused by a storm or other casualty and not by normal wear and tear.

### **Summary**

In *Axelrod v. Commissioner*, the U. S. Tax Court denied David Axelrod's casualty loss deduction for damage to his sailboat. Axelrod claimed a \$500 loss due to storm damage during a race but failed to substantiate that the damage was caused by the storm rather than normal wear and tear. Despite having insurance, Axelrod did not file a claim, fearing policy cancellation. The court ruled that Axelrod did not meet his burden of proof to establish the loss was due to a casualty and not regular use. Additionally, the court upheld the negligence penalty due to Axelrod's failure to keep proper records for other claimed deductions.

### **Facts**

David Axelrod, a doctor, owned a wooden sailboat used primarily for racing. On August 27, 1965, during a race in heavy weather, Axelrod's boat sustained damage including loosened planks and lost caulking. Axelrod had an insurance policy covering storm damage but did not file a claim, fearing cancellation. He claimed a \$500 casualty loss on his 1965 tax return, asserting the damage was caused by the storm. Axelrod also failed to keep proper records for several other claimed business expense deductions.

### **Procedural History**

The Commissioner of Internal Revenue disallowed Axelrod's casualty loss deduction and imposed negligence penalties for the tax years 1964 and 1965. Axelrod petitioned the U. S. Tax Court for a redetermination. The court denied the deduction and upheld the negligence penalty, concluding that Axelrod failed to prove the casualty loss and lacked proper records for other deductions.

### **Issue(s)**

1. Whether Axelrod is entitled to a deduction for a casualty loss in 1965 for damage to his sailboat.
2. Whether any part of Axelrod's underpayment of tax for the years 1964 and 1965 was due to negligence or intentional disregard of rules and regulations.

### **Holding**

1. No, because Axelrod failed to prove that the damage to his sailboat was caused by the storm rather than normal wear and tear from racing.
2. Yes, because Axelrod failed to keep proper records of several claimed business expense deductions, indicating negligence.

## **Court's Reasoning**

The court emphasized that a taxpayer claiming a casualty loss must prove the loss was caused by a storm or other casualty and not by normal wear and tear. Axelrod's evidence did not sufficiently distinguish the damage from the storm versus regular racing use. The court noted that Axelrod's boat required constant repairs, suggesting that the damage could be from normal use. The court also rejected Axelrod's argument about not filing an insurance claim, stating that the existence of insurance coverage precludes a casualty loss deduction if the loss was compensable. On the negligence issue, the court found Axelrod's lack of record-keeping for several deductions indicative of negligence, upholding the penalty.

## **Practical Implications**

This case reinforces the burden of proof on taxpayers to substantiate casualty losses, requiring clear evidence that damage resulted from a specific event rather than normal use. It also highlights the necessity of maintaining proper records for all claimed deductions to avoid negligence penalties. Practitioners should advise clients to document the cause and extent of any claimed casualty loss, particularly when insurance coverage exists but is not utilized. Subsequent cases have continued to apply this stringent proof standard for casualty losses, and the ruling serves as a reminder of the importance of comprehensive record-keeping in tax matters.