George L. Riggs, Inc. v. Commissioner, 64 T. C. 530 (1975)

For a tax-free liquidation under Section 332, the parent must own at least 80% of the subsidiary's stock on the date the subsidiary adopts its liquidation plan.

Summary

George L. Riggs, Inc. owned 72. 13% of Riggs-Young Corp. and sought to liquidate it tax-free under Section 332. The key issue was when Riggs-Young adopted its liquidation plan. The court held that the plan was adopted on June 20, 1968, when the shareholders formally approved it, after Riggs, Inc. had achieved 80% ownership. This allowed the liquidation to be tax-free. The decision emphasizes that a formal adoption date, not informal intentions, determines when a liquidation plan is adopted for Section 332 purposes.

Facts

George L. Riggs, Inc. (Riggs) owned 72. 13% of Riggs-Young Corp. 's common stock and 35. 6% of its preferred stock. In December 1967, Riggs-Young sold its assets to SET Corp. In early 1968, Riggs-Young redeemed all its preferred stock. On April 26, 1968, Riggs-Young made a tender offer to buy out minority common shareholders, except Riggs and Frances Riggs-Young. By May 9, 1968, Riggs owned over 80% of Riggs-Young's common stock. On June 20, 1968, Riggs-Young's shareholders formally adopted a liquidation plan, and liquidation distributions were made to Riggs by December 31, 1968.

Procedural History

The Commissioner determined a tax deficiency for Riggs for the year ended March 31, 1969, arguing the liquidation plan was adopted before Riggs owned 80% of Riggs-Young, making the liquidation taxable. Riggs petitioned the Tax Court, which held in favor of Riggs, finding the plan was adopted on June 20, 1968, after Riggs achieved 80% ownership.

Issue(s)

1. Whether Riggs-Young Corp. adopted its plan of liquidation on June 20, 1968, when Riggs owned at least 80% of its stock, making the liquidation tax-free under Section 332.

Holding

1. Yes, because the formal adoption of the liquidation plan by Riggs-Young's shareholders on June 20, 1968, occurred after Riggs achieved 80% ownership, satisfying Section 332's requirements.

Court's Reasoning

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The court rejected the Commissioner's arguments that the plan was informally adopted earlier, citing the lack of concrete evidence of a definitive decision to liquidate before June 20, 1968. The court emphasized that "the adoption of a plan of liquidation need not be evidenced by formal action of the corporation or the shareholders," but "even an informal adoption of the plan to liquidate presupposes some kind of definitive determination to achieve dissolution. " The court found no such determination existed before June 20, 1968. The court also noted that Section 332 is elective, allowing taxpayers to structure transactions to meet or avoid its requirements. The court distinguished this case from Revenue Ruling 70-106, which assumed a prior agreement with minority shareholders.

Practical Implications

This decision clarifies that for Section 332 liquidations, the formal adoption date by shareholders is critical, not earlier informal intentions or discussions. Taxpayers can structure transactions to meet the 80% ownership requirement before formally adopting a liquidation plan. This case may encourage parent corporations to carefully time their acquisition of subsidiary stock to achieve 80% ownership before formalizing liquidation plans. It also highlights the importance of documenting the formal adoption of liquidation plans. Subsequent cases have applied this principle, emphasizing the need for clear evidence of a definitive decision to liquidate at the time of plan adoption.

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