***Darryl R. Dobin and Mavis M. Dobin, Petitioners v. Commissioner of Internal Revenue, Respondent, 73 T. C. 1121 (1980)***

The term ‘acquired and occupied’ in the context of a tax credit for purchasing a new principal residence does not preclude eligibility if the residence was occupied by the taxpayers as tenants prior to purchase, provided the acquisition occurs after the specified date.

**Summary**

In Dobin v. Commissioner, the Tax Court addressed whether the Dobins were eligible for a tax credit under IRC section 44 for purchasing their principal residence. The Dobins moved into a new home in October 1974 under a lease with an intent to purchase and finalized the purchase in April 1975. The court ruled that the Dobins qualified for the credit, interpreting ‘acquired and occupied’ to mean that the purchase must occur after March 12, 1975, despite earlier occupancy as tenants. This ruling aligns with the legislative intent to stimulate the housing market by encouraging the sale of new homes.

**Facts**

In October 1974, the Dobins moved into a newly constructed home in Madison, Wisconsin, as tenants with an agreement that 20% of their lease payments would apply towards the purchase price. They expressed their intent to purchase in writing before occupying the home. The Dobins finalized the purchase via a land contract on April 5, 1975, effective April 1, 1975, and continued to live there as their principal residence. They claimed a tax credit for this purchase on their 1975 tax return, which the Commissioner disallowed, arguing the Dobins did not ‘acquire and occupy’ the residence after March 12, 1975.

**Procedural History**

The Dobins filed a petition with the U. S. Tax Court challenging the Commissioner’s disallowance of their tax credit. The court’s decision focused on the interpretation of IRC section 44, ultimately ruling in favor of the Dobins.

**Issue(s)**

1. Whether the Dobins were eligible for a tax credit under IRC section 44, given they occupied the residence as tenants before purchasing it after March 12, 1975.

**Holding**

1. Yes, because the Dobins ‘acquired and occupied’ the residence after March 12, 1975, as required by IRC section 44(e)(1)(B), despite their earlier tenancy. The court interpreted ‘acquired and occupied’ to focus on the date of acquisition, not the initial occupancy.

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## Court’s Reasoning

The court focused on the plain language of IRC section 44, which did not modify ‘original use’ or ‘acquired and occupied’ to preclude earlier occupancy as tenants. The Dobins met the literal requirements of the statute by being the first to use the house as a residence and by acquiring it after March 12, 1975. The court also considered the legislative history, noting that section 44 was intended to stimulate the sale of existing new homes. The Dobins’ written expression of intent to purchase before occupancy aligned with this intent, indicating their lease was a temporary measure to facilitate eventual purchase. The court found that the regulations under section 44 provided examples of acceptable pre-acquisition occupancy but did not limit eligibility to those situations alone. Furthermore, the court noted the timing of the regulations’ adoption after the statute’s enactment, suggesting it would be unreasonable to penalize taxpayers for not anticipating regulatory requirements.

## Practical Implications

This decision clarifies that taxpayers can still claim the section 44 tax credit for a new principal residence even if they occupied it as tenants before purchasing, provided the purchase occurs after the specified date. Legal practitioners should consider this when advising clients on tax credit eligibility, focusing on the date of acquisition rather than initial occupancy. The ruling supports the legislative goal of stimulating the housing market by encouraging the sale of new homes, potentially influencing future interpretations of similar tax incentives. Businesses involved in real estate may adjust their leasing and sales strategies to facilitate such transactions, and subsequent cases involving similar tax credits may reference Dobin to interpret statutory language in light of legislative intent.

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