

ALCOMA ASSOCIATION, INC. v. UNITED STATES
56-2 USTC ¶ 9612; 51 AFTR 1037 (S.D. Fla. 1956).
***Rev'd* 239 F.2d 365; 57-1 USTC ¶ 9203;**
50 AFTR 1172 (5th Cir. 1956).

[The opinion which follows is that of the U.S. District Court, The complete text of the Court of Appeals' opinion and the Editor's Summary of the case are at p. 780.]

Case Text

FINDINGS OF COURT AND FINAL JUDGMENT

WHITEHURST, District Judge: This cause coming on to be heard upon a Joint Stipulation of Facts, and the Court being otherwise fully advised in the premises, the Court finds as follows:

FINDINGS OF FACT

- (1) The plaintiff is a corporation of the State of Florida, with its office and principal place of business at Lake Wales, Florida.
- (2) The plaintiff is the successor and transferee of all the assets and liabilities, and of all the rights and claims of Alcoma Association, a Massachusetts trust dissolved July 31, 1946 (hereafter called "plaintiff's transferor"), by virtue of a statutory reorganization consummated under the provisions of Florida law.
- (3) During the fiscal years ended July 31, 1943, July 31, 1944, and July 31, 1945, plaintiff's transferor owned and held citrus grove properties located in the vicinity of Lake Wales, Florida, which had a depreciated cost basis to plaintiff's transferor and to plaintiff at October 18, 1944, of \$523,479.77.
- (4) On October 18-19, 1944, during taxpayer's fiscal year 1945, such citrus grove properties were devastated by a hurricane with a resultant reduction of \$191,500.00 in the market value of the property. Such reduction of \$191,500.00 was deducted on the tax return filed for the fiscal year ended July 31, 1945, under the title of "Losses by fire, storm, shipwreck, or other casualty or theft".
- (5) The Commissioner of Internal Revenue recognized the reduction of \$191,500.00 in market value of the property which amounted to 12.185615% of the total value of the property before the hurricane, The Commissioner then applied such percentage (12.185615%) to the cost or adjusted basis of the property as shown in paragraph 3 (\$523,479.77) and thereby determined a deductible loss of \$63,789.23.
- (6) The plaintiff claims to be entitled to the loss in market value due to hurricane amounting to \$191,500.00; the defendant takes the position that the allowable deduction is the same percentage of cost or adjusted basis as the loss bears to the total value of the property, namely 12.185615% of \$523,479.77 or \$63,787.23.

(7) If plaintiff is sustained in its contentions it will be entitled to an additional deduction of \$127,710.77 for the fiscal year ended July 31, 1945, with a carry-back of any resultant net operating loss to the fiscal years ending July 31, 1944 and/or July 31, 1943; if the Commissioner is sustained in his position there will be no additional loss allowable for the fiscal year ended July 31, 1945, and consequently no reduction of taxable income for the fiscal years ended July 31, 1944, or July 31, 1943.

CONCLUSIONS OF LAW

The Court is of the opinion that the defendant's method of computation of the loss allowable on the partial destruction of plaintiff's business properties is the proper method of such computation in that the partial destruction in this case constitutes a pro tanto disposition of the subject properties. It is, therefore

Ordered that the Clerk of this Court enter judgment for the defendant and tax costs of the plaintiff.

Done and Ordered in Chambers at Tampa, Hillsborough County, Florida.