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THE DOBSON RULE

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The case of *Dobson et al. v. Commissioner*,¹ involving federal income taxes, was decided by the Supreme Court of the United States on December 20, 1943. In nearly every decision since that date of an appeal from the Tax Court of the United States that case has been either relied on or distinguished. In the little more than two years since it was decided it has been cited more than two hundred times. Despite one or two apparent body blows more than a year ago it is still being cited with abandon. The time has come for a full reappraisal.

Looking from the facts in the case to the law which emerged from them the impression is derived that a mouse labored and brought forth a mountain. For the facts are surprisingly simple. The taxpayer in 1929 purchased 300 shares of a certain stock. He sold 100 shares in 1930 and another 100 in 1931. The remaining 100 shares he retained. On each sale he sustained a deductible loss, which was claimed on his return for the respective year and allowed. In 1936 he filed suit against his vendor on the ground that he had been induced to purchase by fraudulent representations. In 1939 the suit was settled. Of the amount of the recovery a portion was allocable to the stock sold by the taxpayer in 1930, a portion to the stock sold by him in 1931, and a portion to the stock which he retained. The taxpayer included no part of the re-

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¹320 U. S. 489, 64 Sup. Ct. 239, 88 L. Ed. 248 (1943).