12 T.C. 524 (1949)

A charitable contribution made by check is deductible in the year the check is delivered, provided the check is honored by the bank upon presentation in due course, even if that occurs in a subsequent year or after the drawer's death.

Summary

The estate of Modie J. Spiegel sought to deduct charitable contributions made by checks written in December 1942 but cashed in January 1943. The Tax Court addressed whether these contributions were "paid" in 1942, as required for deduction under Section 23(o) of the Internal Revenue Code. The court held that the contributions were deductible in 1942 because the subsequent honoring of the checks by the bank related back to the date of delivery, establishing payment in the year the checks were issued, regardless of the drawer's death before cashing.

Facts

Modie J. Spiegel wrote two checks on December 30, 1942, to qualifying charitable organizations: one for $5,000 to the Anti-Defamation League and another for $2,800 to Jewish Charities of Chicago. He delivered the checks on December 31, 1942. The Anti-Defamation League deposited its check on January 8, 1943, and it cleared on January 11, 1943. Jewish Charities of Chicago deposited its check on January 4, 1943, and it cleared the same day. Spiegel died on January 8, 1943. His estate sought to deduct these contributions on the 1942 income tax return.

Procedural History

The Commissioner of Internal Revenue disallowed the deduction, arguing that the contributions were not "paid" within the 1942 taxable year. The estate petitioned the Tax Court for a redetermination of the deficiency.

Issue(s)

Whether charitable contributions made by check are deductible in the year the check is delivered to the charity, even if the check is not cashed until the following year or after the death of the drawer?

Holding

Yes, because payment by check is a conditional payment that becomes absolute when the check is honored. The payment relates back to the date of delivery of the check, thus satisfying the requirement that payment be made within the taxable year.

Court's Reasoning

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The Tax Court reasoned that delivering a check constitutes a conditional payment. When the bank honors the check upon presentation, that condition is satisfied, and the payment becomes absolute, relating back to the date the check was delivered. The court emphasized the practical realities of using checks for payment in everyday commerce and sought to apply tax laws in a way that aligns with common business practices. The court explicitly overruled *Estate of John F. Dodge*, 13 B.T.A. 201, which held that a contribution is not made until completed by payment either in money or money's worth. The court noted that Congress intended to eliminate the possibility of a distinction between cash- and accrual-basis taxpayers. The court also stated: "It would seem to us unfortunate for the Tax Court to fail to recognize what has so frequently been suggested, that as a practical matter, in everyday personal and commercial usage, the transfer of funds by check is an accepted procedure. The parties almost without exception think and deal in terms of payment except in the unusual circumstance, not involved here, that the check is dishonored upon presentation, or that it was delivered in the first place subject to some condition or infirmity which intervenes between delivery and presentation."

Practical Implications

This case provides clarity on the deductibility of charitable contributions made via check. It establishes that taxpayers can deduct contributions in the year they relinquish control of the funds by delivering the check, rather than waiting for the check to clear. This ruling simplifies tax planning for both individuals and organizations, aligning tax treatment with the common understanding of when payment is considered to have occurred. This decision emphasizes the importance of the date of delivery, provided the check is presented and honored in due course. The dissent underscores the importance of completed gifts and the ability to revoke a check before it is cashed.

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