14 T.C. 547 (1950)

Section 107(b) of the Internal Revenue Code allows authors who spend more than 36 months creating a literary work to spread the income received from that work over a longer period for tax purposes, even if preliminary work or lost drafts contribute to the final product.

Summary

Iliff David Richardson, author of "American Guerrilla in the Philippines," sought to utilize Section 107(b) of the Internal Revenue Code to reduce his tax burden by spreading income from his book over a 36-month period. The Commissioner argued that Richardson did not meet the 36-month requirement. The Tax Court ruled in favor of Richardson, holding that his work on the book, including lost drafts and preliminary notes, extended over more than 36 months, thus entitling him to the tax benefits.

Facts

Richardson, a U.S. Navy serviceman, began making notes for a book based on his war experiences no later than November 1, 1941. He lost these notes, and subsequent rewritten drafts, due to enemy action and a shipwreck. Despite these setbacks, he continued to gather information and rewrite his manuscript. In November 1944, he partnered with Ira Wolfert to finalize the manuscript, which was published as "American Guerrilla in the Philippines" in April 1945. Richardson received significant income from the book and related rights in 1945 and 1946.

Procedural History

The Commissioner of Internal Revenue determined a deficiency in Richardson's 1945 income tax, arguing that he was not entitled to the benefits of Section 107(b) of the Internal Revenue Code. Richardson petitioned the Tax Court for a redetermination of the deficiency.

Issue(s)

Whether Richardson's work on the book "American Guerrilla in the Philippines" extended over a period of more than 36 months, thus qualifying him for the tax benefits provided by Section 107(b) of the Internal Revenue Code.

Holding

Yes, because Richardson's work on the book, including the creation and recreation of lost notes and manuscripts, began no later than November 1, 1941, and continued until at least January 15, 1945, exceeding the 36-month requirement.

Court's Reasoning

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The Tax Court rejected the Commissioner's argument that only the time Richardson spent as a guerrilla should be considered. The court reasoned that the entire process of creating the book, including the initial note-taking, the loss and rewriting of drafts, and the final collaboration with Wolfert, should be considered part of the writing process. The court emphasized Richardson's persistence and determination in pursuing his goal of writing a book based on his war experiences. The court stated, "There is nothing unusual in the fact that, in the final form of the book 'American Guerrilla in the Philippines,' petitioner omitted much material he had collected and perpetuated in the form of notes and manuscript concurrently made with the happening of the several events. The preparation of any 'literary composition' is usually a process of writing and rewriting, cutting here and adding there." The court concluded that the preliminary work and lost drafts were inextricably interwoven with the final product and should be included in calculating the 36-month period.

Practical Implications

This case clarifies that the 36-month period for income averaging under Section 107(b) (and its successors) includes all work contributing to a literary composition, not just the final drafting stages. Authors can include time spent on research, preliminary drafts, and even work that was ultimately discarded in the final version. This broad interpretation benefits authors by allowing them to spread income over a longer period, reducing their tax liability. The ruling emphasizes a holistic view of the creative process, acknowledging that discarded work and preliminary efforts are integral to the final product. Later cases applying this ruling would likely focus on documenting the timeline and scope of the author's work, including evidence of preliminary research, drafts, and revisions to demonstrate that the 36-month requirement has been met.

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