16 T.C. 23 (1951)

A charitable contribution made by check is deductible in the year the check is delivered to the charity, even if the check is not cashed until the following year.

Summary

Estelle Broussard, a member of the Sisters of the Holy Cross, sought to deduct charitable contributions made to her order in 1946. She delivered checks to the order on December 31, 1946, but the checks were not deposited and collected until 1947. The Tax Court held that the contributions were deductible in 1946 because "payment" occurred when the checks were delivered to the Sisters of the Holy Cross, aligning with the intent of the parties involved. The court relied on the precedent set in *Estate of Modie J. Spiegel*, which addressed a similar issue.

Facts

Estelle Broussard was a member of the Sisters of the Holy Cross, taking vows of poverty, chastity, and obedience.
She was a beneficiary of the Broussard Trust, established by her father, which provided her with taxable income.
Broussard did not use the trust income for personal needs; her expenses were covered by the Order.
In December 1946, while visiting her ailing father, she discussed making contributions to her Order with her brother, Clyde Broussard.
On December 31, 1946, two checks totaling $6,000 were issued by Beaumont Rice Mills, payable to the Sisters of the Holy Cross, and charged to Broussard's account within the Broussard Trust.
The checks were delivered to Broussard, as a representative of the Order, on December 31, 1946, for transmittal to the Order's officials.
Broussard departed for Washington, D.C., that same day and the checks were deposited by the Sisters of the Holy Cross in 1947.

Procedural History

The Commissioner of Internal Revenue determined a deficiency in Broussard's 1946 income tax, disallowing the deduction for charitable contributions, claiming they were not paid in 1946.
Broussard contested the Commissioner's determination in Tax Court.

Issue(s)

Whether the charitable contributions made by check were deductible in 1946, when the checks were delivered to the charity, or in 1947, when the checks were deposited and collected.

Holding

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Yes, the charitable contributions were deductible in 1946, because “payment” occurred when the checks were delivered to the Sisters of the Holy Cross.

Court’s Reasoning

The court relied on Section 23(o)(2) of the Internal Revenue Code, which allows deductions for charitable contributions “payment of which is made within the taxable year.”

The court emphasized that the checks were made out to the Sisters of the Holy Cross, charged to Broussard’s account, and delivered to her as a representative of the Order on December 31, 1946.

The court determined that at the moment of delivery, the money represented by the checks no longer belonged to Broussard but to the Sisters of the Holy Cross. The court stated, “When this is done, we think a payment of the $ 6,000 in question to the Sisters of the Holy Cross took place on December 31, 1946.”

The court found the case analogous to *Estate of Modie J. Spiegel, 12 T.C. 524*, where checks delivered in December 1942 but paid in January 1943 were deemed deductible in 1942.

The court dismissed the Commissioner’s argument that the absence of a local house of the Sisters of the Holy Cross in Beaumont, Texas, made a difference, noting that the checks were made out directly to the Order and delivered to a member for transmittal.

Practical Implications

This case confirms that for tax purposes, a charitable contribution made by check is considered “paid” when the check is delivered to the charity, not when the check is cashed. This rule provides clarity for taxpayers making year-end contributions.

Taxpayers can rely on the date of delivery as the date of payment for deduction purposes, even if the charity deposits the check in the subsequent year.

This ruling emphasizes the importance of documenting the date of delivery of charitable contributions, especially for checks delivered close to the end of the tax year.

Later cases have cited *Broussard* to support the principle that delivery constitutes payment when the donor relinquishes control of the funds. This case is often used in conjunction with *Estate of Modie J. Spiegel* to illustrate the “delivery equals payment” rule for charitable contribution deductions.

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