Limbeck v. Commissioner, 4 T.C. 671 (1945)

A taxpayer seeking to deduct a loss from the sale of partnership assets must substantiate the basis of those assets, even if the basis was initially accepted in a prior examination of the partnership return.

Summary

The petitioner, Limbeck, sought to deduct his share of a loss incurred by his partnership on the sale of assets. The Commissioner denied the deduction, arguing that the partnership had not substantiated the basis of the assets sold. The Tax Court agreed with the Commissioner, finding that the petitioner failed to prove the basis of the assets, which were originally contributed to the partnership by a deceased partner. The court held that a prior acceptance of the basis in a revenue agent's report did not preclude the Commissioner from later challenging it when determining the deductibility of the loss.

Facts

C.F. Limbeck and M.D. Limbeck contributed real estate and personal property to a partnership in exchange for partnership interests in 1942. In 1944, the partnership sold these assets to Dubuque Packing Company. On the partnership's books, the adjusted basis for the assets was $64,889.37. The Commissioner disallowed a loss claimed by the partnership on the sale, and subsequently disallowed Limbeck's deduction of his share of the loss. Limbeck was unable to provide proof of C.F. Limbeck's original basis in the contributed property, who was deceased.

Procedural History

The Commissioner determined a deficiency in Limbeck's income tax. Limbeck petitioned the Tax Court for a redetermination of the deficiency. The Tax Court upheld the Commissioner's determination, finding that Limbeck had failed to substantiate the basis of the assets sold by the partnership.

Issue(s)

Whether the Commissioner is precluded from disallowing a loss deduction claimed by a partner based on the unsubstantiated basis of partnership assets, when that basis was initially accepted in a revenue agent's report on the partnership's return.

Holding

No, because the taxpayer has the burden of proving the basis of assets for loss deduction purposes, and a prior acceptance of the basis in a partnership return does not prevent the Commissioner from later challenging its validity when determining an individual partner's tax liability.

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Court’s Reasoning

The Tax Court reasoned that the taxpayer bears the burden of proving the basis of assets when claiming a loss deduction. The court acknowledged that the partnership’s books showed a basis of $64,889.37 for the assets sold. However, it also recognized that this figure was largely based on the value the partners had agreed upon for capital contribution purposes, without any underlying evidence of the original cost or other basis in the hands of the contributing partner. Because Limbeck could not provide any documentation of C.F. Limbeck’s original basis in the property, the court found that he had failed to meet his burden of proof. The court rejected Limbeck’s argument that the Commissioner was estopped from challenging the basis because it had been accepted in a prior examination of the partnership return. The court emphasized that the deficiency notice clearly stated that the loss was considered “unsubstantiated,” putting Limbeck on notice that he needed to prove the basis of the assets. The court quoted Burnet v. Houston, 283 U.S. 223: “The impossibility of proving a material fact upon which the right to relief depends simply leaves the claimant upon whom the burden rests with an unenforceable claim, a misfortune to be borne by him, as it must be borne in other cases, as the result of a failure of proof.”

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