18 T.C. 385 (1952)

When property is held by a married couple as tenants by the entireties, any net operating loss from that property is deductible one-half by each spouse, regardless of which spouse paid the expenses.

Summary

Oren White and his wife owned a farm in Michigan as tenants by the entireties. White paid all farm-related expenses, resulting in a net operating loss. He claimed the entire loss on his individual tax return. The Commissioner of Internal Revenue determined that only one-half of the loss was deductible by White, with the other half deductible by his wife. The Tax Court upheld the Commissioner's determination, reasoning that income and deductions from entireties property must be treated consistently, with each spouse entitled to one-half.

Facts

Oren C. White and his wife owned a farm in Michigan as tenants by the entireties. White conducted general farming operations on the property. White paid all farm-related expenses from his separate funds. No written or oral agreement existed between White and his wife regarding the division of profits, losses, or expenses related to the farm. A net operating loss resulted from the farming operations.

Procedural History

White claimed the entire farm net operating loss on his individual income tax return. The Commissioner of Internal Revenue determined a deficiency, allocating half of the loss to White and half to his wife. White petitioned the Tax Court, contesting the Commissioner's determination.

Issue(s)

Whether a net operating loss from a farm owned by a husband and wife as tenants by the entireties is deductible entirely by the husband who paid all the expenses, or whether the loss must be divided equally between the spouses.

Holding

No, because when property is owned by a husband and wife as tenants by the entireties, both the income and the losses are divided equally between the two for federal income tax purposes, regardless of which spouse paid the expenses.

Court's Reasoning

The court reasoned that under Michigan law, income from property held as tenants by the entireties is taxable one-half to each spouse. The court relied on analogies to

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community property law, where income and deductions are generally divided equally between spouses. The court cited *Pierce v. Commissioner*, stating that community income should be divided between husband and wife for federal income tax purposes. The court stated, “We fail to see any reason why a net profit should be taxable one-half to each of the parties but a net loss should be deductible entirely by one of the spouses. The treatment should be consistent in both situations.” The court distinguished cases like *Nicodemus v. Commissioner*, which allowed one spouse to deduct taxes and interest paid on entireties property, noting that the record in this case did not show what amounts, if any, White had paid for such items.

Practical Implications

This decision reinforces the principle that income and deductions from entireties property are generally treated as belonging equally to both spouses for tax purposes. Attorneys advising clients on tax matters involving entireties property should ensure that both income and expenses are properly allocated to each spouse’s individual tax return. This case demonstrates the importance of consistent tax treatment, and the need to allocate deductions proportionally to each spouse’s share of the income. While specific expenses like taxes and interest might, under different factual circumstances, be deductible by the paying spouse, clear evidence of such payments is required.

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