33 T.C. 389 (1959)

A taxpayer cannot claim a charitable contribution deduction for a property transfer if the taxpayer retains significant control over the property, effectively negating a true gift.

Summary

The Burroughs Corporation (Petitioner) created a foundation and transferred a recreational property, Burroughs Farms, to it. Simultaneously, the petitioner leased the property back from the foundation. The petitioner retained significant control over the foundation, including the ability to direct its operations, remove and appoint trustees, and reacquire the property. The Tax Court held that the petitioner could not deduct the value of the property as a charitable contribution because the transfer lacked the requisite degree of finality and irrevocability to constitute a true gift. Furthermore, the court disallowed the petitioner's deduction of rent paid to the foundation for the leaseback, arguing the petitioner had not divested itself of equity in the property.

Facts

The petitioner, Burroughs Corporation, owned Burroughs Farms, a recreational property for its employees. The petitioner created the Burroughs Foundation and transferred Burroughs Farms to it. The petitioner's board of directors appointed the members of a committee that controlled the foundation, which, among other powers, could direct how trust assets were used and could remove and replace trustees. Concurrently with the transfer, Burroughs leased the property back from the foundation. The lease terms were for 25 years with an option to extend for an additional 30 years. The petitioner deducted the value of the property as a charitable contribution and deducted the rent paid under the lease. The Commissioner of Internal Revenue disallowed both deductions, arguing the transfer was not a true gift because of retained control and that the rent was not a legitimate business expense.

Procedural History

The Commissioner of Internal Revenue determined a deficiency in the petitioner's income tax for 1953, disallowing the charitable contribution and rent deductions. The petitioner challenged the deficiency in the United States Tax Court.

Issue(s)

1. Whether the petitioner was entitled to deduct, under Internal Revenue Code Section 23(q), any amount as a charitable contribution because of the conveyance of Burroughs Farms to the Burroughs Foundation Auxiliary Trust?

2. Whether the petitioner was entitled, under Internal Revenue Code Section

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23(a)(1)(A), to deduct the accrued rent paid for the use of Burroughs Farms?

Holding

1. No, because the petitioner retained significant control over the property, the conveyance did not constitute a charitable contribution.

2. No, because the petitioner had not completely divested itself of equity in the property, and the rent was not a deductible business expense.

Court’s Reasoning

The court focused on whether the petitioner had made a complete and irrevocable gift of the property to the trust. The court noted that the petitioner, through its board of directors, controlled the foundation, including the ability to direct its operations, the power to appoint and remove committee members and trustees, and the right to reacquire the property at a future date. The court cited *Smith v. Shaughnessy* for the principle that a gift requires the abandonment of control over the property. The court found that the retained powers indicated a lack of intent to make a true gift. The court reasoned that the petitioner’s control effectively negated the character of the transfer as a gift, and that the lease-back and the ability to reacquire the property indicated a lack of donative intent.

Regarding the rent deduction, the court reasoned that the petitioner’s retained equity in the property prevented the rent from being a deductible business expense. The court stated that for rent to be deductible under IRC Section 23(a)(1)(A), the taxpayer must not be taking title or have equity in the property. The petitioner’s ability to reacquire the property was found to constitute retained equity, and the rent payment therefore was not deductible.

Practical Implications

This case is a critical illustration of the

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