Barr v. Commissioner, 51 T. C. 693 (1969)

The citizenship and residency requirements for dependency deductions under section 152(b)(3) of the Internal Revenue Code are constitutional.

Summary

In Barr v. Commissioner, the U. S. Tax Court upheld the constitutionality of section 152(b)(3) of the Internal Revenue Code, which denies a dependency deduction for non-citizens who do not reside in the United States or live with the taxpayer. The petitioners, David and Yun Barr, sought a deduction for Yun's son from a previous marriage, Nak Man Koo, who lived in Korea during 1965. The court found that Nak Man Koo did not meet the statutory requirements for a dependent, as he was not a U. S. citizen, did not reside in the U. S. , and did not live with the Barrs. The court rejected the petitioners' claims that the statute was discriminatory and constituted a bill of attainder, affirming the IRS's denial of the deduction.

Facts

David B. Barr, a U. S. citizen, and Yun D. Barr, a Korean-born resident of the U. S. who had not yet been naturalized, filed a joint tax return for 1965 claiming a dependency deduction for Nak Man Koo, Yun's son from a previous marriage. Nak Man Koo was born in Seoul, Korea, and lived there with relatives until entering the U. S. in 1966. In 1965, he was found to have tuberculosis, which initially made him ineligible for a U. S. visa. The Barrs provided over half of Nak Man Koo's support in 1965. The IRS disallowed the deduction, citing section 152(b)(3), which excludes non-citizens who do not reside in the U. S. or live with the taxpayer from being considered dependents.

Procedural History

The Barrs filed a petition with the U. S. Tax Court challenging the IRS's determination of a $95. 69 deficiency in their 1965 income tax, arguing that section 152(b)(3) was unconstitutional. The Tax Court heard the case and issued its opinion on February 3, 1969, upholding the constitutionality of the statute and ruling in favor of the Commissioner.

Issue(s)

1. Whether section 152(b)(3) of the Internal Revenue Code, which denies a dependency deduction for non-citizens who do not reside in the U. S. or live with the taxpayer, is constitutional.

Holding

1. No, because the court found that the statute's citizenship and residency requirements for dependency deductions are reasonable and not arbitrary or

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capricious, and thus do not violate the Fifth Amendment or constitute a bill of attainder.

Court’s Reasoning

The court applied the legal principle that Congress has wide latitude in levying taxes and that a classification of taxpayers is constitutional if it is reasonable and not arbitrary. The court noted that before 1944, dependency deductions were allowed without regard to the citizenship or residency of the dependent, but Congress added restrictions due to concerns about the validity of claims for dependents living abroad. The court found that the restrictions in section 152(b)(3) were a reasonable response to the practical difficulties the IRS faced in verifying the support of children living abroad, particularly in countries with which the U. S. had strained relations. The court rejected the petitioners’ arguments that the statute was discriminatory and constituted a bill of attainder, stating that the statute did not single out any individual or group for punishment without trial. The court quoted from *Barclay & Co. v. Edwards*, 267 U. S. 442, 450 (1924), to support its conclusion that the Fifth Amendment does not apply to reasonable tax classifications.

Practical Implications

This decision clarifies that taxpayers cannot claim dependency deductions for non-citizen children who do not reside in the U. S. or live with them, even if they provide substantial support. Tax practitioners must advise clients of these restrictions when preparing returns, particularly for clients with family members living abroad. The case underscores the deference courts give to Congress in tax matters, making it difficult to challenge the constitutionality of tax statutes on grounds of discrimination or due process. Subsequent cases have followed this precedent, confirming the validity of section 152(b)(3) and its progeny. The decision may have societal implications for families with members living abroad, potentially affecting their tax planning and financial support decisions.

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