Evans v. Commissioner, 54 T. C. 40 (1970)

A partner's assignment of their entire partnership interest to a corporation results in the corporation being recognized as the partner for federal income tax purposes, even without the consent of other partners.

Summary

Donald Evans assigned his one-half interest in the Evans-Zeier Plastic Company to his wholly owned corporation, Don Evans, Inc. , without informing his partner, Raymond Zeier. The Tax Court held that for federal tax purposes, the assignment effectively transferred Evans' partnership interest to the corporation, terminating the old partnership and creating a new one between the corporation and Zeier. Thus, Evans was not taxable on the partnership income or the gain from the subsequent sale of the interest to Zeier, as the corporation was recognized as the partner under IRC sections 708 and 704(e).

Facts

Donald L. Evans and Raymond Zeier were equal partners in the Evans-Zeier Plastic Company, a business involving the manufacture of plastic products. In 1960, due to strained relations and a desire to start his own business, Evans sought advice on how to accumulate capital. On January 2, 1961, he assigned his entire one-half interest in the partnership to Don Evans, Inc. , a corporation he solely owned, without informing Zeier. The assignment was valued at $51,518. 46, for which Evans received corporate stock. Despite the assignment, partnership returns continued to list Evans as a partner, and he continued to perform his usual work. In 1965, Evans and Zeier dissolved the partnership, with Evans selling his interest to Zeier, the proceeds being deposited into the corporation's account.

Procedural History

The Commissioner of Internal Revenue determined deficiencies in Evans' income tax for the years 1961 through 1965, asserting that he remained taxable on the partnership income and the gain from the 1965 sale. Evans petitioned the Tax Court, which ruled in his favor, holding that the assignment to the corporation was effective for federal tax purposes, thus relieving Evans of tax liability on the partnership income and the sale's gain.

Issue(s)

1. Whether the assignment by Donald Evans of his entire interest in the Evans-Zeier Plastic Company to Don Evans, Inc. , without the consent of his partner, Zeier, was effective to relieve him of tax upon the distributive share of partnership income attributable to such interest.

2. Whether gain derived on the subsequent sale of such partnership interest is

© 2025 SCOTUSreports.com. All rights reserved.

taxable to Donald Evans.

Holding

1. No, because under IRC sections 708 and 704(e), the assignment terminated the old partnership and created a new one with the corporation as a partner, making the corporation, not Evans, taxable on the partnership income.

2. No, because the gain from the sale of the partnership interest was taxable to the corporation, which had acquired the interest, not to Evans personally.

Court's Reasoning

The Tax Court's decision hinged on the interpretation of IRC sections 708 and 704(e). Section 708(b)(1)(B) provides that a partnership terminates if 50% or more of the total interest in partnership capital and profits is sold or exchanged within a 12-month period, which occurred here. The court also relied on section 704(e), which recognizes a person as a partner if they own a capital interest in a partnership where capital is a material income-producing factor. The court found that the assignment transferred Evans' entire interest in profits and surplus to the corporation, entitling it to partnership income and assets upon dissolution. The court distinguished this case from *Burnet v. Leininger*, noting that Evans assigned a capital interest, not just future income. The court further held that Evans' continued nominal status as a partner did not subject him to tax on income assigned to the corporation, citing *United States v. Atkins*.

Practical Implications

This decision clarifies that for federal tax purposes, a partner can assign their entire partnership interest to a corporation, even without the consent of other partners, and the corporation will be recognized as the partner. This ruling has significant implications for tax planning involving partnerships and corporations, allowing partners to shift tax liability to corporate entities. Practitioners should note that while state law may not recognize the corporation as a partner, federal tax law will, potentially affecting how partnership interests are structured and transferred. Subsequent cases like *Baker v. Commissioner* have applied this principle, reinforcing its use in tax planning strategies.

© 2025 SCOTUSreports.com. All rights reserved.