Starker v. United States, 60 T. C. 732 (1973)

For nonrecognition of gain under Section 1034, both the dwelling and the land must be sold or disposed of; sale of land alone does not qualify if the dwelling is retained.

Summary

In Starker v. United States, the petitioners sold the land on which their dwelling was located but retained and moved the dwelling to another lot for rental income. The key issue was whether the sale of the land alone qualified for nonrecognition of gain under Section 1034, which requires the sale of the entire 'old residence. ' The Tax Court held that it did not, reasoning that a residence consists of both the dwelling and the land, and thus, the sale of the land without the dwelling did not meet the statutory requirements. Additionally, the court addressed the treatment of moving costs, concluding they should be added to the basis of the dwelling, not the land.

Facts

In September 1961, the petitioners resided at premises A, consisting of a house and lot. They agreed to sell the lot to WRI for $20,000 and a life estate in premises B, while moving the house to premises C for use as rental property. They then moved into premises B, which became their new residence.

Procedural History

The case was brought before the United States Tax Court to determine whether the gain from the sale of the land qualified for nonrecognition under Section 1034 and how to treat the moving costs of the dwelling.

Issue(s)

1. Whether the sale of the land alone, without the dwelling, qualifies for nonrecognition of gain under Section 1034.
2. Whether the cost of moving the dwelling from premises A to premises C should be added to the basis of the land sold or the dwelling moved.

Holding

1. No, because Section 1034 requires the sale or disposal of the entire 'old residence,' including both the dwelling and the land.
2. No, because the moving cost should be added to the basis of the dwelling, not the land, as it represents an improvement to the dwelling.

Court's Reasoning

The court's decision hinged on the interpretation of Section 1034, which requires the sale of the entire 'old residence. ' The court cited Benjamin A. O'Barr, stating

© 2025 SCOTUSreports.com. All rights reserved.

that adjacent land alone cannot be considered a residence. The petitioners' retention of the dwelling and its conversion to rental property distinguished this case from precedents like Bogley, where the entire property was sold. The court also distinguished Rev. Rul. 54-156, which applied to scenarios where the dwelling was moved to a new lot and used as the principal residence. On the moving cost issue, the court relied on Hoyt B. Wooten, affirming that such costs should be added to the basis of the building moved, not the land sold. The petitioners failed to prove that the moving cost was essential to the sale of the land or that it represented a cost of sale.

Practical Implications

This decision clarifies that for nonrecognition of gain under Section 1034, taxpayers must dispose of the entire residence, not just the land. Legal practitioners should advise clients to sell both the dwelling and the land to qualify for tax benefits under this section. The ruling also impacts how moving costs are treated for tax purposes, emphasizing that such costs are improvements to the building and should be added to its basis. This case informs future cases involving partial sales of residential property and the treatment of associated costs, guiding attorneys in advising clients on tax planning and compliance.

© 2025 SCOTUSreports.com. All rights reserved.