Picchione v. Comm'r, 54 T. C. 1490 (1970)

Installment income from the sale of a copyright is taxed as ordinary income under the law in effect at the time of receipt, not at the time of the sale.

Summary

In Picchione v. Comm'r, the U. S. Tax Court ruled that periodic payments received from a copyright sale are taxable as ordinary income, not capital gain, based on the tax law in effect at the time of receipt. Nicholas Picchione sold the copyright to a record book in 1946, receiving payments until 1973. The court applied the 1954 Internal Revenue Code's definition of capital assets, which excludes copyrights sold by their creators, to the income received in 1964-1966, despite the sale occurring before the 1950 amendment. This decision underscores the principle that for installment sales, the tax character of income is determined by the law at the time of payment.

Facts

Nicholas Picchione, a certified public accountant, created a record book and transferred his interest to his wife Lillian and son Everett in 1945. They obtained a copyright and sold it in 1946 to a corporation owned by Nicholas, in exchange for monthly payments until October 1, 1973. Neither Nicholas, Lillian, nor Everett were engaged in the business of originating literary materials. In 1952, Lillian and Everett transferred their rights to future payments to the Dome Enterprises Trust. By 1964, the trust was distributing its income to Nicholas, which was reported as long-term capital gain. The IRS challenged this, asserting the income should be taxed as ordinary income.

Procedural History

The IRS determined deficiencies in the Picchiones' federal income tax for 1964, 1965, and 1966, asserting that the income from the trust should be treated as ordinary income. The Picchiones contested this in the U. S. Tax Court, arguing that the income should be classified as capital gain under the tax laws in effect at the time of the copyright sale in 1946.

Issue(s)

1. Whether the tax treatment of periodic payments received from the sale of a copyright is governed by the tax law in effect at the time of the sale or at the time of receipt.

Holding

1. No, because the tax law in effect at the time of receipt, specifically the 1954 Internal Revenue Code, governs the character of the income received in 1964, 1965,

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and 1966, classifying it as ordinary income.

Court’s Reasoning

The court applied the principle from Snell v. Commissioner that the law in effect at the time of payment, rather than at the time of sale, determines the character of income from installment sales. The 1950 amendment to the 1939 Code, carried forward into the 1954 Code, excluded copyrights from being considered capital assets when held by their creators or those whose basis is determined by the creator’s basis. The court emphasized that this rule applies to payments received after the effective date of the amendment, regardless of when the sale occurred. The legislative history supported this interpretation, and the court rejected the argument that the amendment should only apply prospectively to transactions occurring after its enactment.

Practical Implications

This decision impacts how installment income from creative works should be taxed, requiring practitioners to consider the tax law in effect at the time of receipt rather than the time of sale. It affects the tax planning for artists and creators who sell their works on an installment basis, potentially increasing their tax liability. The ruling has been influential in subsequent cases dealing with the taxation of income from intellectual property sales, reinforcing the principle that tax law changes can apply to ongoing transactions. This case also highlights the importance of understanding the nuances of tax law amendments and their application to different types of income.

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