Unser v. Commissioner, 59 T. C. 528 (1973)

Taxpayers must use the correct taxable income for base period years in income averaging calculations, even if statute of limitations bars deficiency assessment for those years.

Summary

In Unser v. Commissioner, the U. S. Tax Court ruled that for income averaging under sections 1301-1305 of the Internal Revenue Code, taxpayers must use the correct taxable income for base period years, even when the statute of limitations prevents reassessment of those years. Robert Unser had unreported income from his corporation in 1965, which was barred from reassessment. However, the court held that this income must be included when calculating his income for the years 1966-1968. The decision emphasized the statutory language requiring the use of actual taxable income, not reported income, for averaging purposes, and supported the IRS's position.

Facts

Robert W. Unser and Norma A. Unser filed tax returns for the years 1966, 1967, and 1968. Robert Unser, Inc. , a corporation he owned, began operations in 1965, and its income was not reported on his 1965 return. The IRS reallocated the corporation's income to Robert for 1966-1968 under section 482, which was agreed upon. However, for 1965, the statute of limitations barred reassessment, yet the IRS included this income in calculating Robert's base period income for income averaging in the subsequent years.

Procedural History

The IRS determined deficiencies in the Unsers' income taxes for 1966, 1967, and 1968, based on the inclusion of 1965 corporate income in the base period calculation. The Unsers contested this inclusion, arguing that since the statute of limitations barred reassessment for 1965, its income should not be considered. The case proceeded to the U. S. Tax Court, where the Unsers sought a ruling that their base period income should be calculated using the reported income for 1965.

Issue(s)

1. Whether in computing taxable income for the years 1966, 1967, and 1968 under the income-averaging provisions of sections 1301 through 1305, I. R. C. 1954, petitioners are required to use the correct amount of the taxable income for the base period year 1965, even though assessment of a deficiency for 1965 is barred by the statute of limitations.

Holding

1. Yes, because the statutory language in section 1302(c)(2) requires the use of the actual taxable income for the base period year, not the income as reported or previously determined, regardless of the statute of limitations.

Court's Reasoning

The court focused on the statutory language of section 1302(c)(2), which defines base period income as "the taxable income for such year. " The court interpreted this to mean the correct income, not merely the reported or previously determined income. They referenced the case of ABKCO Industries, Inc. , where similar principles were applied to net operating loss carrybacks, noting that the court may consider facts from closed years to correctly determine tax for open years. The court rejected the Unsers' argument that income averaging required recomputation of taxes for base period years, citing changes made in the 1964 Revenue Act that simplified the process and eliminated such requirements. The court concluded that the correct taxable income for 1965 must be used in calculating the Unsers' income for 1966-1968.

Practical Implications

This decision clarifies that for income averaging, the IRS and taxpayers must use the correct taxable income for base period years, even if those years are closed for reassessment. This impacts how practitioners should approach income averaging, ensuring that all relevant income is accounted for, regardless of the statute of limitations. It also affects tax planning strategies, particularly for those with fluctuating incomes, by reinforcing the importance of accurate reporting in all years. Subsequent cases and IRS guidance have followed this precedent, emphasizing the need for accurate base period calculations in income averaging scenarios.