Collins v. Commissioner, 61 T. C. 693 (1974)

A charitable foundation must receive substantial support from the general public to qualify its donors for an additional 10% tax deduction under IRC section 170(b)(1)(A)(vi).

Summary

In Collins v. Commissioner, Dr. Robert Collins established a foundation to which he was the sole contributor, donating cash and a building he used for his medical practice. The foundation, lacking public support, leased the building back to Collins. The IRS challenged Collins' claim for an additional 10% charitable deduction, arguing the foundation did not qualify under IRC section 170(b)(1)(A)(vi) due to its lack of public support. The Tax Court upheld the IRS's position, ruling that the foundation's sole reliance on Collins' contributions disqualified it from the enhanced deduction. The court's decision emphasized the necessity of actual public support, not just an intent to seek it, to qualify for the additional deduction. Additionally, the court found that the IRS's second investigation into Collins' tax liability was not "unnecessary" under IRC section 7605(b), and that procedural guidelines did not invalidate the deficiency notice.

Facts

In 1968, Dr. Robert Collins, a physician, established the Collins Foundation in California, contributing $1,000 in cash and a building valued at $40,000, where he conducted his medical practice. The foundation leased the entire building back to Collins for one year with options to renew. Collins and his two sisters, both nurses, served as the foundation's board of trustees. The foundation aimed to study human "traits" and their relation to "attitudes," though its activities were limited. It produced two pamphlets on these topics, funded by Collins, with no evidence of broader public dissemination or support. Collins claimed a charitable deduction of $30,194 on his 1968 tax return, relying on the foundation's status as a publicly supported organization under IRC section 170(b)(1)(A)(vi).

Procedural History

After an initial audit by IRS Agent Zelmon, which resulted in adjustments unrelated to the foundation, Agent Milne audited the foundation's 1969 tax return. Milne discovered Collins was the sole contributor and informed Agent Smoller, who was auditing Collins' 1969 return, leading to the disallowance of a carryover deduction. Milne then reopened Collins' 1968 return, leading to a deficiency notice on April 13, 1972, which disallowed the additional 10% deduction. Collins challenged the deficiency notice in the Tax Court, which upheld the IRS's determination.

Issue(s)

1. Whether the IRS's second examination of Collins' 1968 tax liability was

“unnecessary” under IRC section 7605(b).
2. Whether the IRS’s failure to follow its procedural guidelines in reopening Collins’ case invalidated the deficiency notice.
3. Whether the Collins Foundation qualified as a publicly supported organization under IRC section 170(b)(1)(A)(vi), thereby entitling Collins to an additional 10% charitable deduction.

Holding

1. No, because the IRS’s second investigation was not arbitrary and was necessary to protect the revenue, as it was based on new information regarding the foundation’s status.
2. No, because procedural guidelines are directory, not mandatory, and their noncompliance does not invalidate a deficiency notice.
3. No, because the foundation did not receive substantial support from the general public, as required by IRC section 170(b)(1)(A)(vi), and thus did not qualify Collins for the additional 10% deduction.

Court’s Reasoning

The court reasoned that IRC section 7605(b) aims to prevent taxpayer harassment, not restrict the IRS’s legitimate power to protect revenue. The IRS’s second investigation was justified by new evidence suggesting Collins’ 1968 deduction was excessive. The court found that procedural guidelines like Revenue Procedure 68-28 are not mandatory, and their breach does not invalidate a deficiency notice. Regarding the foundation’s status, the court emphasized that IRC section 170(b)(1)(A)(vi) requires actual public support, not just an intent to seek it. The foundation’s sole reliance on Collins’ contributions and lack of broader public engagement or governance disqualified it from the enhanced deduction. The court noted, “the plain language of the statute, as reinforced by applicable regulations, leaves no room for any conclusion other than that there had been a failure to satisfy the statutory requirement. “

Practical Implications

This decision clarifies that for a donor to claim an additional 10% charitable deduction under IRC section 170(b)(1)(A)(vi), the recipient organization must demonstrate actual, substantial public support. Practitioners must ensure their clients’ charitable contributions are made to organizations that meet this criterion, not just those with an intent to seek public support. The ruling also reaffirms the IRS’s authority to conduct multiple investigations based on new information, without violating IRC section 7605(b). For legal practice, this case underscores the non-mandatory nature of IRS procedural guidelines, emphasizing that compliance with such guidelines does not affect the validity of a deficiency notice. Subsequent cases have cited Collins to reinforce the necessity of actual public support for charitable organizations seeking to qualify under similar provisions.

