Collins v. Commissioner, T.C. Memo. 1976-304

The IRS can re-examine a taxpayer's return even after a prior examination if the re-examination is not 'unnecessary,' and a foundation primarily funded by a single family does not qualify as a 'publicly supported' organization for additional charitable deduction purposes.

Summary

Collins deducted a charitable contribution to his family foundation, claiming it qualified for the additional 10% deduction as a publicly supported charity. The IRS re-examined his return after a previous audit. The Tax Court held that the IRS's re-examination was justified and the foundation did not meet the requirements of a 'publicly supported' organization because it lacked broad public support and was primarily funded and controlled by the donor's family. The court emphasized the objective requirement for public support and adherence to regulatory criteria for such organizations.

Facts

Petitioner Collins made a charitable contribution to the Collins Foundation in 1968 and claimed an additional 10% deduction on his tax return, arguing the foundation was publicly supported. The IRS initially examined Collins's 1968 return and issued a deficiency notice on other items. Later, Revenue Agent Milne investigated the Collins Foundation's tax liability and subsequently re-examined Collins's individual 1968 return, disallowing the additional charitable deduction. The Collins Foundation was primarily funded by Collins and governed by his family members.

Procedural History

The IRS initially examined Collins's 1968 tax return and issued a deficiency notice regarding other items. Subsequently, after investigating the Collins Foundation, the IRS re-examined Collins's 1968 return and disallowed the additional charitable contribution deduction. Collins challenged this re-examination and the disallowance in Tax Court.

Issue(s)

1. Whether the IRS's re-examination of Collins's 1968 tax return was 'unnecessary' under Section 7605(b) of the Internal Revenue Code, thus making it procedurally invalid.

2. Whether the Collins Foundation qualified as a 'publicly supported' organization under Section 170(b)(1)(A)(vi) of the Internal Revenue Code, entitling Collins to the additional 10% charitable deduction for his contribution.

Holding

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1. No, because the re-examination was not ‘unnecessary’ as it was based on a legitimate suspicion of excessive deduction and served the Commissioner’s statutory duty to protect revenue.

2. No, because the Collins Foundation did not objectively receive a ‘substantial part of its support’ from the general public, failing to meet the statutory and regulatory requirements for a ‘publicly supported’ organization.

Court’s Reasoning

Regarding the re-examination, the court reasoned that Section 7605(b) is intended to prevent taxpayer harassment, not to restrict the IRS’s power to protect revenue. An investigation is not ‘unnecessary’ if it may contribute to the Commissioner’s statutory purposes. Quoting *De Masters v. Arend*, the court stated, “an ‘investigation cannot be said to be ‘unnecessary’ if it may contribute to the accomplishment of any of the purposes for which the Commissioner is authorized by statute to make inquiry.” The court found the re-examination justified given Agent Milne’s knowledge suggesting a potentially excessive deduction. The court also dismissed the argument that the re-examination was for an improper purpose (pressuring Collins on the foundation’s tax liability), finding no evidence of such motive.

On the charitable deduction issue, the court emphasized the plain language of Section 170(b)(1)(A)(vi), requiring an organization to ‘[receive] a substantial part of its support…from the general public.’ The court noted the regulations further clarify this, stating that ‘under no circumstances will an organization which normally receives substantially all of its contributions…from the members of a single family…qualify as a ‘publicly supported’ organization.’ As Collins was the sole contributor, the foundation failed this objective test. The court also found the foundation did not meet the ‘facts and circumstances test’ in the regulations, lacking characteristics of public support, a broadly representative governing body, or public solicitation of funds.

Practical Implications

Collins clarifies the IRS’s authority to re-audit tax returns and reinforces the objective standards for ‘publicly supported’ charities. For legal professionals, it underscores that: (1) Taxpayers cannot easily challenge re-examinations unless they demonstrate genuine harassment or arbitrariness by the IRS. (2) Family foundations heavily reliant on single-donor funding face significant hurdles in qualifying as ‘publicly supported’ for enhanced charitable deduction benefits. (3) Compliance with detailed Treasury Regulations, particularly those outlining the ‘facts and circumstances test,’ is crucial for organizations seeking ‘publicly supported’ status. This case serves as a cautionary example for donors seeking maximum charitable deductions through family-controlled foundations, highlighting the necessity for demonstrable broad public support.

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