T.C. Memo. 1978-49

Informal corporate documents, such as a letter and meeting minutes, are insufficient to establish a 'binding written contract' as required for the exception to restrictions on accelerated depreciation for used Section 1250 property under Section 167(j)(6)(C) of the Internal Revenue Code.

Summary

The petitioners, shareholders of a corporation (Limited) who formed a partnership (Warren), sought to depreciate a building transferred from Limited to Warren using an accelerated method. Section 167(j)(4) generally disallows accelerated depreciation for used Section 1250 property acquired after July 24, 1969, but an exception exists under Section 167(j)(6)(C) for property acquired pursuant to a binding written contract in effect on July 24, 1969. The petitioners argued a June 6, 1969 letter and minutes from a June 23, 1969 meeting constituted such a contract. The Tax Court held that these documents did not constitute a binding written contract, and the arrangement lacked the bona fide, arm's length nature required for the exception.

Facts

Prior to July 24, 1969, the Schopfer family owned all the stock of Limited, which owned a building constituting used Section 1250 property. On June 6, 1969, Matthew Byrne, president of Limited, sent a letter to the Schopfers outlining a plan to liquidate Limited and transfer the building to a partnership to be formed (Warren), to allow for accelerated depreciation. A meeting of Limited's shareholders occurred on June 23, 1969, and a memorandum summarizing the meeting was prepared. Warren partnership was formed, and Limited liquidated, distributing the building to Warren. Warren claimed accelerated depreciation on the building. The IRS disallowed the accelerated depreciation.

Procedural History

The Commissioner of Internal Revenue disallowed the partnership's use of accelerated depreciation. The taxpayers petitioned the Tax Court to contest the Commissioner's determination.

Issue(s)

1. Whether a June 6, 1969 letter and memorandum of a June 23, 1969 meeting constituted a "written contract" for the acquisition of Section 1250 property binding on the taxpayer as of July 24, 1969, within the meaning of Section 167(j)(6)(C) of the Internal Revenue Code.

2. Whether the alleged contract represented a "bona fide agreement negotiated at arm's length" as required by Treasury Regulations for the exception under Section

© 2025 SCOTUSreports.com. All rights reserved.

167(j)(6)(C).

Holding

1. No, because the June 6 letter and the memorandum of the June 23 meeting did not constitute a "written contract" as required by Section 167(j)(6)(C).

2. No, because the arrangement was not a "bona fide agreement negotiated at arm's length," primarily serving a tax avoidance purpose and lacking genuine economic substance beyond tax benefits.

Court's Reasoning

The court reasoned that the June 6 letter and meeting memorandum were insufficient to form a binding written contract. Minutes of a meeting are merely a record of what occurred, not a contract itself. Quoting Lawrence v. Premier Indemnity Assur. Co., the court stated, "minutes of a meeting are not a written instrument. Their function is merely to act as a written record of what took place at the meeting." The court emphasized that while enforceability is a factor, a "written contract" must first exist. Further, the court found the arrangement was not "bona fide" or "arm's length." The liquidation and transfer were solely for tax advantages, lacking genuine economic substance. The court noted, "It cannot be denied that, on the record before us, the only purpose for the liquidation of Limited was the perceived tax advantage of accelerated depreciation of the property in the hands of the partnership." Tax exemptions are narrowly construed, and Congress intended the exception in Section 167(j)(6)(C) to apply to genuine, arm's length contracts, not tax-motivated intra-corporate restructurings.

Practical Implications

This case underscores the importance of formal, legally sound contracts when seeking tax advantages based on exceptions to general rules, especially concerning depreciation. Informal documentation, even if reflecting intent, may not suffice as a "binding written contract" for tax purposes. Taxpayers must demonstrate that agreements are bona fide and arm's length, not solely motivated by tax avoidance. This case serves as a cautionary example that tax-driven transactions, lacking independent economic substance and relying on loosely documented agreements, are vulnerable to IRS scrutiny and may not qualify for intended tax benefits. It highlights the necessity for clear, formal contracts when structuring transactions to meet specific tax code exceptions and the courts' focus on the substance over the form of such arrangements.

© 2025 SCOTUSreports.com. All rights reserved.