Winn v. Commissioner, 67 T. C. 499 (1976)

Contributions to individuals for charitable purposes are not deductible unless made to or for the use of a qualified organization, and passive investment income over 20% of gross receipts can terminate a corporation's Subchapter S election.

Summary

In Winn v. Commissioner, the Tax Court addressed three key issues: the validity of extending the statute of limitations via Form 872-A, the deductibility of a charitable contribution to a missionary, and whether barge charter income constituted passive investment income sufficient to terminate a Subchapter S election. The court upheld the use of Form 872-A, denied the charitable deduction because the contribution was made to an individual rather than a qualified organization, and ruled that barge charter income was rent, leading to the termination of the Subchapter S election due to exceeding the 20% passive investment income threshold.

Facts

E. H. Winn, Jr. , and Betty Lee Jones Winn filed joint federal income tax returns for 1967, 1968, and 1969. They owned shares in Wagren Barge Co. , which elected Subchapter S status in 1966. In 1968, over 20% of Wagren's gross receipts were from barge charter income. The Winns also made a $10,000 contribution to a fund for a Presbyterian missionary, Sara Barry, which they claimed as a charitable deduction. They extended the statute of limitations for 1968 using Form 872-A.

Procedural History

The Commissioner determined deficiencies in the Winns' income taxes for 1968 and 1969. The Winns contested these deficiencies in the U. S. Tax Court, challenging the use of Form 872-A, the denial of their charitable deduction, and the termination of Wagren's Subchapter S election.

Issue(s)

1. Whether the execution of Form 872-A extending the statute of limitations violates section 6501(c)(4) of the Internal Revenue Code and the Fifth Amendment?
2. Whether the Winns' $10,000 contribution to the Sara Barry Fund is deductible under section 170 of the Internal Revenue Code?
3. Whether Wagren's barge charter income constitutes passive investment income under section 1372(e)(5) of the Internal Revenue Code, thereby terminating its Subchapter S election?

Holding

1. No, because Form 872-A is a valid extension under section 6501(c)(4) and does not violate the Fifth Amendment.

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2. No, because the contribution was made to an individual rather than to or for the use of a qualified organization.
3. Yes, because barge charter income is rent within the meaning of section 1372(e)(5), and Wagren did not provide significant services in connection with this income.

Court's Reasoning

The court upheld the validity of Form 872-A, noting it was consistent with section 6501(c)(4) and did not deny due process. For the charitable contribution, the court found the donation was made to Sara Barry individually, not to the Presbyterian Church, and thus not deductible under section 170. Regarding the Subchapter S election, the court determined that barge charter income was rent, as it was derived from bareboat charters without significant services by Wagren. The court relied on the legislative intent behind Subchapter S, which is to benefit corporations actively engaged in business, not those with substantial passive income.

Practical Implications

This case underscores the importance of ensuring charitable contributions are made directly to qualified organizations to be deductible. It also clarifies that income from bareboat charters can be considered passive investment income under Subchapter S rules, potentially terminating an election if it exceeds 20% of gross receipts. Practitioners should advise clients to carefully structure their business operations and charitable giving to comply with tax laws. Subsequent cases have referenced Winn to address similar issues of charitable deductions and the classification of income for Subchapter S purposes.

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