Rosefsky v. Commissioner, 70 T. C. 909 (1978)

A partnership's Section 1033 election extends the statute of limitations for assessing deficiencies against individual partners related to partnership income.

Summary

In Rosefsky v. Commissioner, the U. S. Tax Court held that a partnership's election under Section 1033 of the Internal Revenue Code to defer gain from condemned property extended the statute of limitations for assessing deficiencies against individual partners for the partnership's income. The partnership had not replaced the condemned property within the required period, and the IRS assessed deficiencies against the partners for the 1970 tax year. The court rejected the partners' argument that the statute of limitations had run on their individual returns, emphasizing that the partners could not divorce themselves from the partnership's tax obligations.

Facts

In 1960, Alec Rosefsky and Joseph A. D'Esti formed a partnership and purchased real property at 60 Hawley Street, Binghamton, New York. The property was condemned in 1965, and the partnership received payments, recognizing gain in 1970. The partnership elected under Section 1033 to defer the gain by replacing the property but did not replace it within the required one-year period. In 1972, the partnership unsuccessfully requested an extension. The IRS issued deficiency notices to the partners in 1975 for the 1970 tax year.

Procedural History

The partners filed petitions with the U. S. Tax Court, which consolidated the cases. The court considered whether the statute of limitations barred the IRS's assessment of deficiencies against the partners for the 1970 tax year.

Issue(s)

1. Whether the statute of limitations bars the IRS from assessing and collecting deficiencies in income tax from the partners for the year 1970, given the partnership's Section 1033 election.

Holding

1. No, because the partnership's Section 1033 election extended the statute of limitations for assessing deficiencies related to the partnership's income until three years after the IRS was notified of the partnership's failure to replace the property.

Court's Reasoning

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The court reasoned that the partnership's Section 1033 election tolled the statute of limitations for assessing deficiencies against the partners until three years after the IRS was notified of the partnership's failure to replace the property. The court rejected the partners' argument that the statute had run on their individual returns, emphasizing that the partners were liable for the partnership's tax obligations. The court noted that the partnership's 1972 request for an extension, though denied, constituted notification of the failure to replace, allowing the IRS to assess deficiencies until December 1975. The court also clarified that the partnership's Section 1033 election applied to the partners as well, and they could not separate themselves from the partnership's tax obligations.

Practical Implications

This decision clarifies that a partnership's Section 1033 election extends the statute of limitations for assessing deficiencies against individual partners for partnership income. Practitioners should advise clients that a partnership's tax elections can impact the partners' individual tax liabilities. The ruling underscores the importance of timely compliance with Section 1033 requirements and the potential consequences of failing to replace condemned property within the statutory period. Subsequent cases have cited Rosefsky to support the principle that partners cannot insulate themselves from partnership tax obligations through individual statute of limitations arguments.

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