King v. Commissioner, 73 T. C. 384 (1979)

To claim a tax credit for constructing a new principal residence, the taxpayer must occupy the residence as their principal residence, not just use it occasionally, within the specified time frame.

Summary

In King v. Commissioner, the court denied the petitioners' claim for a tax credit under Section 44 for constructing a new home, ruling that they did not occupy it as their principal residence. The petitioners had purchased a lot and started construction in 1974 but faced delays due to a building moratorium. After construction, they used the home only on weekends, while living primarily in a rented house. The court found that weekend use did not constitute occupying the home as a principal residence, as required by Section 44. Additionally, the court allowed a deduction for medical expenses after confirming the expenditures.

Facts

In 1972, petitioners purchased a lot in Bridgton, Maine, intending to build a home for retirement. Construction began in July 1974 but was delayed by a state moratorium on shoreline construction. After the moratorium was lifted in September 1974, petitioners reapplied for a building permit in May 1975 and completed the house. They moved most of their furniture to the new home in September 1976 but continued to live primarily in a rented house in Groton, Connecticut, where the husband found employment. The petitioners used the Maine home only on weekends. In 1975, they incurred $793. 85 in medical expenses.

Procedural History

The Commissioner of Internal Revenue determined a deficiency in the petitioners' 1975 income tax, disallowing a credit claimed under Section 44 and medical expense deductions. The petitioners contested this determination before the Tax Court, which heard the case in November 1978.

Issue(s)

1. Whether petitioners are entitled to a tax credit under Section 44 for constructing a new principal residence in Bridgton, Maine.
2. The amount of deduction for medical expenses to which petitioners are entitled.

Holding

1. No, because the petitioners did not occupy the house as their principal residence within the required timeframe of March 12, 1975, to January 1, 1977, as they only used it on weekends.
2. The petitioners are entitled to a medical expense deduction of $793. 85, less 3%

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of their gross income, as all claimed expenses were substantiated.

Court’s Reasoning

The court applied Section 44 and its regulations, which require that for a taxpayer to claim the credit, the new residence must be occupied as the principal residence. The court rejected the petitioners’ argument that weekend use constituted occupancy, citing Section 1. 44-2(b) of the Income Tax Regulations, which specifies physical occupancy by the taxpayer or spouse. The court also referenced Section 1034 and case law defining principal residence, emphasizing that regular, day-to-day living is required. The court accepted the petitioners’ testimony that construction began in July 1974, despite invoices indicating payment in July 1975, based on credibility assessments. For medical expenses, the court found the petitioners’ evidence sufficient to substantiate the claimed expenditures.

Practical Implications

This decision clarifies that for tax credit eligibility under Section 44, taxpayers must live in the new home as their primary residence, not merely use it occasionally. This ruling impacts how similar cases should be analyzed, emphasizing the need for substantial evidence of principal residence occupancy. Legal practitioners must advise clients accordingly, ensuring they understand the distinction between principal and secondary residences. Businesses involved in real estate and tax planning need to consider this when advising clients on potential tax benefits of new construction. Subsequent cases, such as those involving Section 1034, have continued to apply this principle, further solidifying the requirement for principal residence occupancy in tax credit scenarios.

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