Morris v. Commissioner, 73 T. C. 285, 1979 U. S. Tax Ct. LEXIS 22 (U. S. Tax Court, November 19, 1979)

The burden of proof in tax credit claims for new home construction remains with the taxpayer, even when a seller's certification is provided.

Summary

In Morris v. Commissioner, the taxpayers sought a tax credit for their new residence under section 44 of the Internal Revenue Code, which required construction to begin before March 26, 1975. Despite attaching a seller's certification to their tax return, the U. S. Tax Court ruled against them, holding that the burden of proof remained with the taxpayers. The court found that construction did not begin until after the critical date, and the certification alone was insufficient to shift the burden of proof to the Commissioner. This case underscores the importance of taxpayers providing substantial evidence beyond mere certifications to support their tax credit claims.

Facts

Chester L. and Beverly G. Morris entered into a contract with Four Oaks Properties, Inc. , on March 21, 1975, for the purchase of a residence to be built on lot 18-C in Jonesboro, Georgia. The lot was not cleared until after April 9, 1975, due to adverse weather conditions. The Morrises claimed a tax credit under section 44 of the Internal Revenue Code for 1975, attaching a certificate from Four Oaks stating construction began before March 26, 1975. The Commissioner of Internal Revenue challenged the claim, asserting that construction had not commenced by the required date.

Procedural History

The Commissioner issued a statutory notice of deficiency dated July 12, 1978, determining a deficiency in the Morrises' federal income tax for 1975. The Morrises petitioned the U. S. Tax Court, which heard the case and issued its opinion on November 19, 1979, ruling in favor of the Commissioner.

Issue(s)

1. Whether the filing of a certificate of price and date of construction, as required by section 44(e)(4) of the Internal Revenue Code, shifts the burden of proof from the taxpayer to the Commissioner.
2. Whether the taxpayers are entitled to a credit under section 44 of the Internal Revenue Code for the purchase of a new principal residence.

Holding

1. No, because neither the statute nor its legislative history provides for such a shift of the burden of proof.

2. No, because the taxpayers failed to prove that construction of their residence began before March 26, 1975, as required by section 44(e)(1)(A).

Court's Reasoning

The court applied the general rule that the burden of proof rests with the taxpayer, as stated in Rule 142 of the Tax Court Rules of Practice and Procedure. The court found no statutory or legislative basis for shifting the burden of proof to the Commissioner based on the seller's certification. The court reviewed the evidence, which showed that the lot was not cleared until after April 9, 1975, and construction did not commence until after this date. The court determined that the driving of stakes to mark the house's location did not constitute the commencement of construction under section 44. The court emphasized that the taxpayers' reliance on the seller's certification, without additional evidence, was insufficient to meet their burden of proof.

Practical Implications

This decision reinforces the principle that taxpayers must provide substantial evidence to support their tax credit claims, particularly when relying on third-party certifications. Legal practitioners should advise clients to gather and present comprehensive proof of compliance with statutory requirements. The ruling may affect how builders and sellers certify construction dates, as such certifications do not shift the burden of proof in tax disputes. Subsequent cases, such as Reddy v. United States, have upheld the guidelines set forth in this decision regarding what constitutes the commencement of construction for tax credit purposes.