Glen v. Commissioner, 79 T. C. 208 (1982)

The charitable deduction for self-created intellectual property, such as interview tapes, is limited to the donor's cost or basis, not fair market value.

Summary

William Glen, a geology instructor, donated interview tapes to the Bancroft Library. The tapes, created by Glen's personal efforts, were deemed not to be capital assets under IRC § 1221(3). Consequently, the Tax Court held that Glen's charitable deduction was limited to his cost basis in the tapes, rather than their fair market value, under IRC § 170(e)(1)(A). This decision underscores that self-created intellectual property donated to charity does not qualify for a deduction based on fair market value, impacting how taxpayers value such contributions.

Facts

William Glen, an instructor in geology, interviewed leading scientists in geophysics and related fields from 1977 to 1979 as part of his Ph. D. research on plate tectonics. He recorded these interviews on tapes, which he donated to the Bancroft Library at the University of California in 1978. Glen retained duplicates of these tapes. The library agreed to preserve the tapes in perpetuity and not use them for 10 years without Glen's permission, as he planned to use the material for a book. The tapes had no established market value, but similar interviews conducted by hired professionals cost libraries approximately $100 per hour. Glen claimed a charitable deduction of $6,200, based on an assumed fair market value, but the Commissioner argued it should be limited to Glen's cost basis.

Procedural History

Glen filed a joint Federal income tax return for 1978 and claimed a charitable deduction for the donated tapes. The Commissioner determined a deficiency and disallowed the deduction beyond Glen's cost basis. Glen petitioned the U. S. Tax Court, which upheld the Commissioner's position, limiting the deduction to Glen's cost or basis in the tapes.

Issue(s)

1. Whether the tapes donated by Glen to the Bancroft Library are considered capital assets under IRC § 1221(3).

2. Whether Glen's charitable deduction for the donated tapes should be limited to his cost or basis under IRC § 170(e)(1)(A).

Holding

1. No, because the tapes were created by Glen's personal efforts and thus fall within

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the exclusion from capital assets under IRC § 1221(3).

2. Yes, because the tapes are not capital assets, the deduction is limited to Glen's cost or basis under IRC § 170(e)(1)(A).

Court's Reasoning

The court applied IRC § 1221(3), which excludes from capital assets self-created intellectual property such as copyrights, literary compositions, and similar property. The court interpreted the regulation under IRC § 1. 1221-1(c)(2), which includes oral recordings as "similar property," concluding that Glen's tapes fit this definition. As the tapes were not capital assets, any gain from their hypothetical sale would be ordinary income, thus limiting the charitable deduction to Glen's cost or basis under IRC § 170(e)(1)(A). The court rejected Glen's argument that the statute discourages donations of such property, affirming the regulation as a proper interpretation of the law. The court also noted that the Commissioner's alternative argument under IRC § 170(f)(3) was not reached due to the primary issue's disposition.

Practical Implications

This decision affects how taxpayers value charitable contributions of self-created intellectual property. It establishes that such donations are limited to the donor's cost or basis, not fair market value, which may deter individuals from making such donations due to the reduced tax benefit. Legal practitioners should advise clients accordingly when planning charitable contributions of similar property. The ruling also reaffirms the IRS's position on the classification of self-created intellectual property under IRC § 1221(3), impacting how similar cases are analyzed. Subsequent cases, such as Morrison v. Commissioner, have applied this ruling, further solidifying its impact on charitable deductions.

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