Traficant v. Commissioner, 89 T. C. 501 (1987)

Bribes received by a public official are taxable income and must be reported, with failure to do so resulting in fraud penalties if intent to evade taxes is proven.

Summary

James Traficant, Jr. , elected sheriff of Mahoning County, Ohio, received $108,000 in bribes from competing organized crime factions during his campaign. He did not report these bribes on his 1980 tax return, despite being aware of the legal obligation to report income from illegal sources. The U. S. Tax Court held that the bribes were taxable income and that Traficant's failure to report them was fraudulent, leading to an addition to tax for fraud. The court's decision hinged on the definition of income, the intent to evade taxes, and the admissibility of evidence over which Traficant had invoked his Fifth Amendment privilege.

Facts

James Traficant, Jr. , campaigned for sheriff of Mahoning County, Ohio, in 1979 and 1980. During his campaign, he received payments from the Pittsburgh and Cleveland factions of La Cosa Nostra, totaling $60,000 and $103,000 respectively. Traficant used some of the funds for campaign expenses and promised not to interfere with the factions' illegal activities in Mahoning County. He did not report these funds on his campaign financial reports or his 1980 Federal income tax return. The Internal Revenue Service (IRS) determined a tax deficiency and fraud penalty, leading to the case before the U. S. Tax Court.

Procedural History

The Commissioner of Internal Revenue determined a deficiency in Traficant's 1980 Federal income tax and an addition to tax for fraud. Traficant petitioned the U. S. Tax Court, which heard the case and issued a decision on September 10, 1987, as amended on September 22, 1987.

Issue(s)

1. Whether Traficant failed to report income on his 1980 Federal income tax return.
2. Whether any portion of the resulting underpayment of tax was due to fraud with intent to evade payment of Federal income tax.

Holding

1. Yes, because Traficant received $108,000 in bribes from organized crime factions, which were income to him under Section 61 of the Internal Revenue Code, and he failed to report these amounts on his tax return.
2. Yes, because Traficant knew the funds were bribes and taxable income, and he concealed this income with the intent to evade taxes, satisfying the clear and

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convincing evidence standard for fraud under Section 6653(b).

Court's Reasoning

The court applied the Internal Revenue Code's broad definition of gross income, which includes income from illegal sources such as bribes. It determined that Traficant had dominion and control over the funds received, and his promise not to interfere with the factions' illegal activities constituted a quid pro quo, making the funds taxable income. The court rejected Traficant's argument that the funds were campaign contributions, finding instead that they were bribes intended to influence his conduct as a public official. Traficant's invocation of the Fifth Amendment privilege against self-incrimination regarding the content of recorded conversations led the court to draw a negative inference that his testimony would have confirmed the substance of those conversations. The court also considered Traficant's actions, such as "washing" money through a law firm and obtaining unneeded loans, as badges of fraud indicative of an intent to evade taxes. The court's decision was influenced by policy considerations that uphold the integrity of the tax system by ensuring that all income, regardless of its source, is subject to taxation.

Practical Implications

This decision underscores that bribes received by public officials are taxable income and must be reported on tax returns. It has implications for legal practice in tax law, particularly in cases involving income from illegal sources. Attorneys must be vigilant in advising clients of their obligation to report all income, including bribes, and the severe penalties for failing to do so with fraudulent intent. The case also affects how similar cases should be analyzed, emphasizing the importance of establishing dominion and control over funds and the intent to evade taxes. Businesses and public officials must be aware that any attempt to conceal income through unreported campaign contributions or other means can lead to fraud penalties. Subsequent cases, such as *James v. United States*, have applied this ruling to affirm the taxability of income from illegal sources.

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