Kallich v. Commissioner, 89 T. C. 676 (1987)

Taxpayers may concede a portion of a deficiency to qualify for small tax case procedures under section 7463, even if the total deficiency exceeds the statutory limit.

Summary

In Kallich v. Commissioner, the U. S. Tax Court allowed the taxpayers to elect small tax case procedures under section 7463 by conceding part of the deficiency determined by the IRS. The IRS had disallowed mining and development expense deductions, resulting in deficiencies over $10,000 for each of the years 1981 and 1982. By conceding enough of the deficiency to bring the disputed amount under $10,000 per year, the taxpayers qualified for the simplified procedures. The court granted the taxpayers' motions to reinstate the small tax case designation, amend their petition, and change the trial location to Fresno, California.

Facts

The IRS issued a statutory notice of deficiency to Duke and Betty Kallich for the taxable years 1981 and 1982, determining deficiencies of $12,190. 58 and $10,395, respectively, due to disallowed mining and development expense deductions of $30,052 and $32,210. The Kallichs filed a timely petition requesting small tax case procedures under section 7463 and Rule 170 et seq. , alleging they were disputing $9,999 of the deficiency for each year. The IRS moved to remove the small tax case designation and change the trial location, which the court granted. The Kallichs then moved to reinstate the small tax case designation, amend their petition to concede a portion of the disallowed deductions, and change the trial location back to Fresno, California.

Procedural History

The IRS issued a statutory notice of deficiency on August 14, 1986. The Kallichs filed a timely petition on October 27, 1986, requesting small tax case procedures. On December 22, 1986, the IRS filed motions to remove the small tax case designation and change the trial location, which the court granted without a hearing. The Kallichs then filed three motions: to reinstate the small tax case designation, amend their petition, and change the trial location. The case was heard by Special Trial Judge Peter J. Panuthos pursuant to section 7456.

Issue(s)

1. Whether taxpayers can obtain small tax case designation under section 7463 and Rule 170 et seq. by conceding a portion of the deficiency without conceding the underlying issue.

Holding

1. Yes, because the amount of the deficiency placed in dispute, after the taxpayers' concessions, did not exceed $10,000 for any one taxable year, as required by section 7463(a)(1).

Court's Reasoning

The court focused on the definition of "the amount of the deficiency placed in dispute" under section 7463. The court noted that the Senate Finance Committee report on section 7463 provided an example of a taxpayer conceding a portion of a deficiency to qualify for small tax case procedures. The court interpreted this to mean that taxpayers could concede a monetary portion of a deficiency to bring the disputed amount within the statutory limit, even if only one issue was involved. The court emphasized that the taxpayers' option to elect small tax case procedures must be concurred in by the court, and the IRS could argue against it if the issue was of significant importance or common to other cases. However, the IRS did not make such an argument in this case. The court granted the taxpayers' motions to reinstate the small tax case designation, amend their petition, and change the trial location to Fresno, California, where small tax cases are regularly heard.

Practical Implications

This decision allows taxpayers to strategically concede a portion of a deficiency to qualify for the more streamlined and less costly small tax case procedures, even if the total deficiency exceeds the statutory limit. Practitioners should advise clients to carefully consider the potential disadvantages of conceding part of a deficiency, as they may still be assessed tax on the conceded amount even if they win the disputed issue. The ruling clarifies that the amount of the deficiency placed in dispute is the portion not conceded by the taxpayer at the time of trial, not the full amount determined by the IRS. This case may encourage more taxpayers to seek small tax case status, potentially reducing the burden on the Tax Court and allowing for more efficient resolution of smaller disputes.

