William Bryen Co. , Inc. and Subsidiaries v. Commissioner of Internal Revenue, 89 T. C. 689 (1987)

Advance contributions to a money purchase pension plan that are not fixed and exceed the employer's liability can disqualify the plan under Section 401(a).

Summary

William Bryen Co. intentionally made advance contributions to its money purchase pension plans, exceeding the required contributions to ensure proper funding and avoid potential underfunding penalties. The Tax Court held that these contributions, which were not fixed and were geared to the company's financial ability, violated the requirement that contributions be fixed without being geared to profits under Section 1. 401-1(b)(1)(i) of the Income Tax Regulations. Consequently, the plans were disqualified under Section 401(a). However, contributions allocated to participants' separate accounts were deductible under Section 404(a)(5). The court also found that the Commissioner provided adequate notice of the advance contributions issue.

Facts

William Bryen Co. and its subsidiary, Bryen, Bryen & Co. , maintained money purchase pension plans. The Bryen, Bryen & Co. Plan, a target benefit plan, was adopted in 1972 and received a favorable determination letter in 1973. In 1976, the company made contributions exceeding its liability, resulting in an excess of assets over liabilities. In 1977, the Bryen, Bryen & Co. Plan merged into the newly adopted William Bryen Co. Plan, which also had excess assets due to advance contributions. These contributions were not allocated to participants' accounts but were held in suspense.

Procedural History

The Commissioner revoked the favorable determination letter for the Bryen, Bryen & Co. Plan in 1983, issued an adverse determination for the William Bryen Co. Plan, and disallowed deductions for contributions made in 1976 and 1977. William Bryen Co. filed petitions with the Tax Court for declaratory judgments and deficiency redetermination. The declaratory judgment cases were dismissed, and the deficiency case proceeded to a decision on the merits.

Issue(s)

1. Whether intentional overfunding of money purchase pension plans results in disqualification under Section 401(a).
2. If the plans are disqualified, whether contributions to participants' separate accounts are deductible under Section 404(a)(5).
3. Whether the Commissioner provided adequate notice of the issue regarding intentional overfunding under the William Bryen Co. Plan for the plan year ended

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Holding

1. Yes, because the advance contributions were not fixed and were geared to the company's financial ability, violating Section 1. 401-1(b)(1)(i) of the Income Tax Regulations.
2. Yes, because contributions allocated to participants' separate accounts met the requirements of Section 404(a)(5).
3. Yes, because the Commissioner provided sufficient notice through various communications prior to the statutory notice of deficiency and the submission of the case.

Court's Reasoning

The court interpreted Section 1. 401-1(b)(1)(i) to require that contributions under a money purchase pension plan be fixed and not subject to the employer's discretion or geared to profits. The court found that William Bryen Co. 's advance contributions, which exceeded the actuarial liability and were based on the company's financial ability, violated this requirement. The court also noted that the Commissioner's prior rulings supported this interpretation. For the second issue, the court held that contributions allocated to separate accounts under the Bryen, Bryen & Co. Plan were deductible under Section 404(a)(5) because they met the separate accounts requirement. On the third issue, the court determined that the Commissioner provided adequate notice of the advance contributions issue through various communications, including a 30-day letter, a request for technical advice, and a technical advice memorandum.

Practical Implications

This decision clarifies that intentional overfunding of money purchase pension plans can lead to disqualification under Section 401(a), emphasizing the importance of adhering to the fixed contribution requirement. Employers must carefully manage contributions to avoid jeopardizing plan qualification. The ruling also underscores the importance of maintaining separate accounts for participants to ensure deductibility of contributions under Section 404(a)(5). Practitioners should ensure clients understand the risks of advance contributions and explore alternative funding strategies, such as separate escrow accounts or requesting waivers of minimum funding requirements under Section 412(d). Subsequent cases, such as those involving excess contributions, have referenced this decision when addressing pension plan qualification and deduction issues.

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