***Todd v. Commissioner, 89 T. C. 912 (1987)***

An underpayment of tax is not attributable to a valuation overstatement if the disallowed deductions and credits are due to the property not being placed in service, rather than the overstatement itself.

**Summary**

Richard and Denese Todd purchased three FoodSource containers, but they were not placed in service during the tax years in question due to a dispute between the seller and the manufacturer. The IRS disallowed the Todds' claimed investment tax credits and depreciation deductions for those years. The court held that while the Todds overstated the valuation of their containers, the underpayments of tax were not attributable to this overstatement but rather to the containers not being placed in service. This decision was based on the interpretation of section 6659 of the Internal Revenue Code, which imposes additions to tax for valuation overstatements only when the underpayment is directly attributable to the overstatement.

**Facts**

The Todds purchased three FoodSource containers: two in December 1981 and one in October 1982. The containers were subject to a dispute between FoodSource, Inc. , and the manufacturer, Budd Co. , and were not released to the Todds or placed in service until November 29, 1983. The Todds claimed investment tax credits and depreciation deductions based on a sales price of $260,000 per container. The IRS disallowed these deductions and credits for the tax years 1979 through 1982, resulting in tax deficiencies.

**Procedural History**

The IRS determined deficiencies for the Todds for the tax years 1979, 1980, 1981, and 1982. The case was consolidated with others involving similar issues and was decided in Noonan v. Commissioner. The Tax Court found that the Todds' containers were not placed in service during the years in issue and disallowed the claimed deductions and credits. The IRS sought to impose additions to tax under section 6659, arguing that the underpayments were attributable to the Todds' overstatement of the containers' valuation.

**Issue(s)**

1. Whether the underpayments of tax for the years in issue are attributable to the valuation overstatements claimed on the Todds' returns.

**Holding**

1. No, because the underpayments were due to the containers not being placed in service during the years in issue, not due to the valuation overstatements

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themselves.

### Court’s Reasoning

The court reasoned that the underpayments were not attributable to the valuation overstatements because the disallowed deductions and credits were solely due to the containers not being placed in service during the years in issue. The court applied the statutory language of section 6659, which requires that the underpayment be directly attributable to the valuation overstatement. The court also considered the legislative history and the practical implications of respondent’s position, which would require the court to decide issues unnecessary to the determination of the deficiency. The court rejected the IRS’s argument that the Todds were more culpable than other taxpayers, noting that the failure to place the containers in service was due to circumstances beyond the Todds’ control. The court concluded that applying section 6659 in this case would be contrary to congressional intent and sound judicial administration.

### Practical Implications

This decision clarifies that additions to tax under section 6659 are not applicable when underpayments are due to factors other than the valuation overstatement itself, such as the property not being placed in service. Practitioners should carefully analyze the basis for any disallowed deductions or credits to determine whether the underpayment is directly attributable to a valuation overstatement. This ruling may encourage taxpayers to concede that property was not placed in service in order to avoid valuation overstatement penalties. The decision also highlights the importance of considering alternative grounds for disallowance of deductions and credits, as these may affect the applicability of penalties. Subsequent cases may reference this decision when addressing the attribution of underpayments to valuation overstatements in the context of tax-motivated transactions.

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