Gantner v. Commissioner, 91 T. C. 713 (1988)

Stock options are not considered 'stock or securities' under the wash-sale provisions of Section 1091 of the Internal Revenue Code.

Summary

In Gantner v. Commissioner, the Tax Court ruled that losses from the sale of stock options are not subject to the wash-sale rules under Section 1091. David Gantner, an active trader of stock options, sold Tandy call options at a loss and repurchased identical options within 30 days. The IRS argued the loss should be disallowed as a wash sale, but the court held that stock options do not fall within the statutory definition of 'stock or securities. ' The decision was based on the specific language of Section 1091 and the lack of legislative intent to include options. Additionally, the court addressed other tax issues, disallowing deductions for computer equipment used by Gantner's corporation and a home office, but allowed a small portion of the computer expenses for non-corporate use.

Facts

David Gantner was the president and 50% shareholder of North Star Driving School, Inc. and also traded stock options actively. In 1980, he purchased and sold call options for Tandy Corp. , including buying 100 January 1981 calls at $100 per share on November 20 and December 2, and selling 100 of these options on December 3, reporting a loss. Gantner repurchased 100 identical options on the same day. He also purchased computer equipment used primarily by North Star but also for personal trading activities. Gantner claimed deductions for a home office and other expenses related to his work and trading.

Procedural History

The IRS issued a notice of deficiency disallowing the loss from the Tandy options sale under the wash-sale rules and other deductions. Gantner petitioned the Tax Court, which held that stock options were not 'stock or securities' under Section 1091, allowing the loss deduction. The court also disallowed most deductions for computer equipment and the home office but allowed a small portion of the computer expenses for non-corporate use.

Issue(s)

1. Whether a loss on the sale of stock options should be disallowed pursuant to the wash-sale provisions of Section 1091 of the Internal Revenue Code?
2. Whether deductions and investment credits relating to computer equipment are allowable?
3. Whether deductions for an office in petitioners' residence are allowable?
4. Whether other business expenses for 1981 are allowable?
5. Whether there was an underpayment of petitioners' 1980 income tax attributable

© 2025 SCOTUSreports.com. All rights reserved.

to tax-motivated transactions, subjecting petitioners to increased interest under Section 6621(c)?

Holding

1. No, because stock options are not ‘stock or securities’ within the meaning of Section 1091.
2. No, because the computer equipment was primarily used by North Star Driving School, Inc. , and expenses paid by Gantner were capital contributions to the corporation, not deductible by him, except for 5% of the expenses related to non-corporate use.
3. No, because the home office was not used exclusively for business purposes and not for the convenience of the employer.
4. No, because Gantner failed to substantiate the business purpose of the claimed expenses.
5. Yes, because there was an underpayment attributable to tax-motivated transactions, subjecting Gantner to increased interest under Section 6621(c).

Court’s Reasoning

The court’s decision on the wash-sale issue was based on the specific language of Section 1091, which distinguishes between the acquisition of stock or securities and entering into a contract or option to acquire them. The court found no legislative history indicating Congress intended to include options under the wash-sale rules. The court also considered the historical context, noting the lack of a significant options market when the wash-sale rules were enacted. For the computer equipment, the court applied the principle that shareholder payments for corporate expenses are capital contributions, not deductible by the shareholder. The 5% allowance was based on Gantner’s use of the equipment for personal trading. The home office deduction was disallowed because it was not for the convenience of the employer, and other business expenses were disallowed due to lack of substantiation. The court upheld the increased interest under Section 6621(c) due to underpayment from tax-motivated transactions.

Practical Implications

This decision clarifies that losses from stock option sales are not subject to the wash-sale rules, allowing traders to deduct such losses without concern for repurchasing options within 30 days. This ruling may encourage more active trading of options. For legal practitioners, the case emphasizes the importance of statutory interpretation and legislative history in tax law. The disallowance of deductions for corporate expenses paid by shareholders reinforces the need for clear agreements on expense allocation between shareholders and corporations. The decision on the home office deduction highlights the strict criteria under Section 280A, which may affect how taxpayers structure their work-from-home arrangements. The ruling on Section 6621(c) underscores the importance of timely payment of tax liabilities to

© 2025 SCOTUSreports.com. All rights reserved.

avoid increased interest on underpayments from tax-motivated transactions.

© 2025 SCOTUSreports.com. All rights reserved.