Gambina v. Commissioner, 91 T. C. 826 (1988)

Cash forfeited under RICO is still includable in gross income for tax purposes.

Summary

In Gambina v. Commissioner, the Tax Court held that cash seized and forfeited under RICO must be included in the taxpayer's gross income. Filippo Gambina argued that the relation-back provision of 18 U. S. C. § 1963(c) meant he never owned the cash, so it should not be taxed. The court rejected this, emphasizing that the legislative intent of RICO was to maximize forfeiture benefits against third parties, not to relieve taxpayers of tax liabilities. The court also noted that excluding forfeited cash from income would be akin to allowing a deduction for forfeiture, which is against public policy.

Facts

On November 14, 1984, Filippo Gambina was arrested at his residence in Middle Village, New York, on charges of conspiring to distribute cocaine. During the arrest, $143,912 in cash was seized along with a revolver, jewelry, and a small quantity of heroin. Gambina later pled guilty to narcotics violations and forfeited the cash under 18 U. S. C. § 1963, part of the Racketeer Influenced and Corrupt Organizations Act (RICO). The IRS included this cash in Gambina's gross income for 1984, leading to a tax deficiency notice.

Procedural History

Gambina filed a petition in the U. S. Tax Court challenging the inclusion of the forfeited cash in his gross income. The case was submitted fully stipulated, and the Tax Court issued its opinion on October 20, 1988, as amended on November 3, 1988, deciding in favor of the Commissioner of Internal Revenue.

Issue(s)

1. Whether the relation-back provision of 18 U. S. C. § 1963(c) precludes the inclusion of forfeited cash in the taxpayer's gross income.

Holding

1. No, because the legislative history of RICO indicates that the relation-back provision was intended to maximize forfeiture benefits against third parties, not to relieve taxpayers of tax liabilities. Excluding forfeited cash from gross income would be contrary to this purpose and akin to allowing a deduction for forfeiture, which is against public policy.

Court's Reasoning

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The Tax Court reasoned that the legislative history of 18 U. S. C. § 1963(c) showed Congress's intent to maximize the financial benefit of forfeiture to the United States, particularly against third parties who had acquired the fruits of criminal activity. The court noted that allowing a taxpayer to exclude forfeited cash from gross income would frustrate this purpose by reducing the effective value of the forfeiture. The court also drew an analogy to previous cases where deductions for forfeited property were denied on public policy grounds, citing Holt v. Commissioner. The court emphasized that the relation-back provision does not change the fact that the taxpayer had control over the cash before its seizure, which is sufficient for tax purposes. The court further supported its decision by referencing Wood v. United States, a case dealing with a similar issue under 21 U. S. C. § 881(h).

Practical Implications

This decision establishes that cash forfeited under RICO remains taxable as gross income. Attorneys should advise clients that the relation-back provision does not shield forfeited assets from taxation. This ruling impacts how legal practitioners handle cases involving forfeiture and taxation, emphasizing that clients cannot reduce their tax liabilities through forfeiture. The decision also has broader implications for the interplay between criminal law enforcement tools like RICO and tax law, potentially affecting how law enforcement agencies and taxpayers approach forfeiture proceedings. Subsequent cases, such as Wood v. United States, have followed this precedent, reinforcing its impact on legal practice in this area.

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