Foil v. Commissioner, 92 T. C. 376 (1989)

Employee contributions to a state judicial retirement plan are not excludable from gross income unless specifically treated as employer contributions under federal tax law.

Summary

Frank Foil, a Louisiana state judge, contributed to the Louisiana State Employees' Retirement System (LASER) under a judicial retirement plan. The key issue was whether these contributions could be excluded from his 1981 gross income. The court determined that the judicial plan was a 'qualified State judicial plan' under the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA), which excluded it from the deferral provisions of IRC § 457. Therefore, Foil's contributions were not eligible for deferral and were taxable in the year they were made. The court also ruled that the contributions did not qualify as employer contributions under IRC § 414(h)(2) because Louisiana did not 'pick up' these contributions until after 1981.

Facts

In 1981, Frank Foil, a Louisiana District Court judge, contributed 11% of his salary to LASER as required by Louisiana law, while the state contributed an additional 9%. Foil elected to participate in a special judicial retirement plan established under Louisiana Revised Statutes, which was administered by LASER. This judicial plan provided different benefits and contribution rates compared to the general LASER plan. Contributions were held in a trust exempt under IRC § 501(a).

Procedural History

The Commissioner of Internal Revenue determined a deficiency in Foil's 1981 federal income tax, asserting that his contributions to LASER were not excludable from his gross income. Foil and his wife petitioned the Tax Court, arguing that their contributions should be excluded under various sections of the Internal Revenue Code or under the transition rules of the Revenue Act of 1978. The case was heard in the United States Tax Court, which ultimately decided in favor of the Commissioner.

Issue(s)

1. Whether the judicial plan is a separate plan from the LASER plan for the purpose of applying federal tax deferral rules.
2. Whether the judicial plan qualifies as an 'eligible State deferred compensation plan' under IRC § 457.
3. Whether the judicial plan is a 'qualified State judicial plan' as defined by TEFRA, and what are the consequences of that status.
4. Whether Foil's contributions are excludable from gross income under the 'pick-up' provisions of IRC § 414(h)(2).

Holding

1. Yes, because the judicial plan was established under a separate set of statutes and provided distinct benefits and contributions, it was considered a separate plan.
2. No, because the judicial plan did not meet the requirements of an 'eligible State deferred compensation plan' under IRC § 457, particularly the requirement that contributions remain the property of the state subject to the claims of its general creditors.
3. Yes, because the judicial plan met the criteria for a 'qualified State judicial plan' under TEFRA, it was excluded from the deferral provisions of IRC § 457, meaning Foil's contributions could not be deferred.
4. No, because the state did not 'pick up' employee contributions until after 1981, Foil's contributions were not treated as employer contributions under IRC § 414(h)(2).

Court's Reasoning

The court applied the statutory framework and legislative history to conclude that the judicial plan was a 'qualified State judicial plan' under TEFRA, which excluded it from IRC § 457's deferral provisions. The plan did not meet IRC § 457's requirements because contributions were held in a separate trust, not subject to the state's general creditors. The court also considered the 'pick-up' provisions under IRC § 414(h)(2) but found that Louisiana did not 'pick up' contributions until after the tax year in question. The decision was based on the plain language of the statutes and the intent to exclude judicial plans from IRC § 457's application, as evidenced by TEFRA's legislative history.

Practical Implications

This decision clarifies that contributions to state judicial retirement plans are not automatically excludable from gross income. Attorneys advising judges and other public employees should carefully review state retirement plan provisions and federal tax law to determine the tax treatment of contributions. The ruling emphasizes the importance of state action in 'picking up' contributions to qualify them as employer contributions under IRC § 414(h)(2). Subsequent cases have cited Foil in analyzing the tax treatment of public employee retirement contributions, reinforcing the need for clear statutory provisions and administrative actions to achieve desired tax outcomes.

