Rome I, Ltd. v. Commissioner, 96 T. C. 697 (1991)

The donation of a facade easement on a rehabilitated historic structure triggers recapture of a portion of the rehabilitation tax credit and requires a corresponding basis reduction in the underlying property.

Summary

Rome I, Ltd. rehabilitated a historic building in 1984 and claimed a rehabilitation tax credit. Later that year, it donated a facade easement to a historical preservation group, triggering the issue of whether this constituted a disposition requiring credit recapture. The Tax Court held that the donation did trigger recapture under Section 47, as it was a disposition of the underlying property. This decision was based on the plain meaning of "disposition," the prevention of double deductions, and the need to align the tax benefits with the property's actual ownership status.

Facts

Rome I, Ltd. , a partnership, purchased a historic building in Rome, Georgia, in 1984. The building, known as the Battey Building, was certified as a historic structure. The partnership rehabilitated the building, incurring qualified rehabilitation expenditures, and claimed a rehabilitation tax credit under Section 48. On November 15, 1984, the partnership donated a facade and conservation easement to the Georgia Trust for Historic Preservation, Inc. , which was recorded on December 31, 1984. The easement was valued at $422,000 and constituted a qualified conservation contribution under Section 170(h)(1).

Procedural History

The Commissioner issued a notice of final partnership administrative adjustment in 1988, disallowing the partnership's rehabilitation tax credit. The case proceeded to the U. S. Tax Court, where the sole issue was whether the donation of the facade easement required recapture of the rehabilitation tax credit and a basis reduction in the property.

Issue(s)

1. Whether the donation of a facade easement on a qualified rehabilitated building to a historical preservation group constitutes a disposition of the underlying real property, triggering recapture of a portion of the rehabilitation tax credit claimed under Section 48.

Holding

1. Yes, because the donation of the facade easement is a disposition under Section 47, requiring recapture of a portion of the rehabilitation tax credit and a corresponding basis reduction in the underlying property.

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Court’s Reasoning

The Tax Court applied the plain meaning of “disposition” as found in dictionaries and legislative history, which includes transfers by gift. The court rejected the partnership’s argument that the donation did not constitute a disposition under the regulations. It reasoned that allowing both a charitable contribution deduction for the easement and a rehabilitation tax credit on the same property would result in an impermissible double deduction. The court cited the rule against double deductions and the legislative intent behind Sections 47 and 48 to prevent quick turnovers of assets for multiple credits. The court also noted that the basis of the property must be adjusted to reflect the easement’s value, as per Section 1. 170A-14(h)(3)(iii) of the regulations.

Practical Implications

This decision clarifies that the donation of a facade easement on a rehabilitated historic building triggers recapture of the rehabilitation tax credit under Section 47. Practitioners advising clients on historic preservation projects must consider the timing of such donations relative to claiming rehabilitation credits. The ruling underscores the importance of aligning tax benefits with the actual ownership and use of property, preventing the use of multiple tax benefits for the same expenditure. Subsequent cases, such as those involving conservation easements, have referenced Rome I, Ltd. to determine the tax treatment of similar transactions.

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