Texas Instruments Incorporated and Its Consolidated Subsidiaries v. Commissioner of Internal Revenue, 98 T. C. 628 (1992)

The Investment Tax Credit (ITC) is not available for the original speculative data tapes used to produce copies for sale, even if the copies are used by customers for exploration on the Outer Continental Shelf.

Summary

Texas Instruments sought an Investment Tax Credit for costs related to creating seismic data tapes used in oil and gas exploration on the Outer Continental Shelf. The tapes were stored outside the U. S. more than 50% of the time. The Tax Court ruled that while the tapes were tangible personal property, they were not eligible for the ITC because Texas Instruments did not use them directly for exploration purposes; instead, they licensed the data to customers who used the copies. The decision hinged on the distinction between the original tapes and the copies used by customers, emphasizing that only the latter were used for the statutorily defined purposes.

Facts

Texas Instruments, through its subsidiaries Geophysical Service Incorporated and Geophysical Service Inc. , collected and processed seismic data on the Outer Continental Shelf. This data was recorded on magnetic tapes, which were then used to create copies sold to oil companies under nonexclusive licenses. The original tapes were stored in Canada more than 50% of the time during the years in question. Texas Instruments did not claim the ITC on its tax return but later sought it in court.

Procedural History

Texas Instruments filed a petition in the U. S. Tax Court to claim the ITC for the costs of creating the seismic data tapes. The Tax Court, after reviewing the case, issued a decision that the original tapes were not eligible for the ITC.

Issue(s)

1. Whether the speculative data tapes constituted tangible personal property under section 48 of the Internal Revenue Code.
2. Whether the speculative data tapes were used for the purpose of exploring for resources on the Outer Continental Shelf, making them eligible for the ITC under section 48(a)(2)(B)(vi).

Holding

1. Yes, because the speculative data tapes were tangible media on which the seismic data was recorded, following the precedent set in Texas Instruments Inc. v. United

States.
2. No, because the original tapes were not used directly by Texas Instruments for exploration purposes but were used to produce copies sold to customers who used them for exploration.

Court's Reasoning

The court applied the precedent from Texas Instruments Inc. v. United States, which held that seismic data tapes and films are tangible personal property because their value is dependent on their physical manifestation. However, the court distinguished the use of the original tapes from the copies. The original tapes were used by Texas Instruments to produce copies for sale, while the copies were used by customers for exploration. The court emphasized that for the ITC, the property must be used by the taxpayer for the statutorily defined purposes, not merely by the end-user. The court also considered congressional reports and regulatory interpretations, concluding that an ultimate use test was not supported by the statute or its legislative history.

Practical Implications

This decision clarifies that for ITC eligibility, the focus is on the use of the property by the taxpayer, not the end-user. Companies involved in similar data licensing should carefully consider the distinction between their use of original data storage media and the use of copies by customers. This ruling may affect how businesses structure their data collection and licensing agreements to optimize tax benefits. Subsequent cases have cited this decision in distinguishing between the use of original property and copies for tax credit purposes, reinforcing the need for direct use by the taxpayer claiming the credit.

