Harris v. Commissioner, 99 T. C. 121 (1992)

NOL carrybacks from settled TEFRA partnership items can be considered in computing a partner's tax liability in a non-TEFRA deficiency proceeding under section 6214(b).

Summary

In Harris v. Commissioner, the U. S. Tax Court ruled that net operating loss (NOL) carrybacks from a settled TEFRA partnership could be taken into account in computing a partner's tax liability in a non-TEFRA deficiency proceeding. The case involved Joseph Harris, who sought to apply NOL carrybacks from a settled TEFRA partnership to offset deficiencies in his personal tax liability for non-TEFRA years. The court held that while settled partnership items become nonpartnership items and can be considered in deficiency proceedings, unsettled TEFRA partnership items cannot be considered. The court also rejected the argument that entry of decision should be deferred pending resolution of other TEFRA partnership proceedings, citing the availability of other remedies under TEFRA for claiming refunds.

Facts

Joseph Harris sought to apply a $38,042 NOL carryback from a settled TEFRA partnership, Bank Software, to offset deficiencies in his personal tax liability for the 1981 tax year. Harris also claimed potential NOL carrybacks from two other TEFRA partnerships, Research One and Research Two, which had not yet been settled. The Tax Court had previously sustained the IRS's disallowance of certain deductions claimed by Harris for his 1979, 1981, and 1982 tax years, related to his interest in the Research One partnership.

Procedural History

The Tax Court issued a memorandum opinion on February 20, 1990, sustaining the IRS's disallowance of Harris's deductions and ordering the decision to be entered under Rule 155. The parties then submitted differing computations under Rule 155, leading to the current dispute over the applicability of NOL carrybacks from TEFRA partnerships in the non-TEFRA deficiency proceeding.

Issue(s)

1. Whether NOL carrybacks attributable to a settled TEFRA partnership can be taken into account in computing a partner's tax liability in a non-TEFRA deficiency proceeding.
2. Whether NOL carrybacks attributable to unsettled TEFRA partnerships can be taken into account in such a proceeding.
3. Whether entry of decision in the deficiency proceeding should be deferred pending resolution of other TEFRA partnership proceedings.

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Holding

1. Yes, because settled TEFRA partnership items become nonpartnership items and can be considered in a non-TEFRA deficiency proceeding under section 6214(b).
2. No, because unsettled TEFRA partnership items cannot be considered in a non-TEFRA deficiency proceeding.
3. No, because the taxpayer has other remedies available under TEFRA for claiming refunds attributable to NOL carrybacks.

Court's Reasoning

The court reasoned that once partnership items are settled, they become nonpartnership items and can be taken into account in computing a partner's tax liability in a non-TEFRA deficiency proceeding. The court relied on section 6214(b), which allows the Tax Court to consider facts relating to other years as necessary to correctly determine the amount of the deficiency. The court distinguished between settled and unsettled TEFRA partnership items, holding that only settled items could be considered in the deficiency proceeding. The court also rejected the argument that entry of decision should be deferred, citing the availability of other remedies under TEFRA for claiming refunds. The court noted that Congress intended to prevent taxpayers from being barred from seeking refunds attributable to partnership items due to the filing of a petition in a non-TEFRA proceeding.

Practical Implications

This decision allows taxpayers to apply NOL carrybacks from settled TEFRA partnerships in computing their tax liability in non-TEFRA deficiency proceedings. Tax practitioners should be aware that settled TEFRA partnership items become nonpartnership items and can be considered in such proceedings, while unsettled items cannot. The decision also clarifies that entry of decision in a deficiency proceeding will not be deferred pending resolution of other TEFRA partnership proceedings, as taxpayers have other remedies available under TEFRA for claiming refunds. This ruling may impact how tax professionals advise clients on the timing of settlements and the filing of refund claims related to TEFRA partnerships.

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