Dubin v. Commissioner, 99 T. C. 325 (1992)

The TEFRA unified audit and litigation procedures apply to each spouse holding a joint interest in a partnership, even if one spouse is in bankruptcy.

Summary

In Dubin v. Commissioner, the Tax Court ruled that the Tax Equity and Fiscal Responsibility Act (TEFRA) procedures must be followed for each spouse with a joint interest in a partnership, even when one spouse is bankrupt. Jewell Dubin and her husband held partnership interests as community property and filed a joint return. When her husband filed for bankruptcy, the IRS issued a deficiency notice to both before completing partnership-level proceedings. The court held that the TEFRA procedures were not superseded by the husband's bankruptcy and thus, the notice was invalid as to Mrs. Dubin, who was not bankrupt. This decision clarifies that each spouse in a joint partnership interest is treated as a separate partner for TEFRA purposes, unless specified otherwise by regulation.

Facts

Jewell Dubin and her husband, Alan G. Dubin, held interests in three partnerships as community property and filed a joint tax return for 1985, claiming partnership losses and credits. In June 1988, Alan filed for bankruptcy. In June 1989, the IRS issued a single deficiency notice to both Jewell and Alan, disallowing the partnership losses and credits. At the time, partnership-level proceedings had not been completed. Jewell filed a petition in the Tax Court, which Alan could not join due to his bankruptcy.

Procedural History

The IRS and Jewell Dubin both filed motions to dismiss the case for lack of jurisdiction. The IRS argued that Jewell's petition was untimely, while Jewell argued that the IRS's deficiency notice was invalid due to noncompliance with TEFRA procedures. The Tax Court granted Jewell's motion, dismissing the case for lack of jurisdiction due to the invalidity of the notice of deficiency.

Issue(s)

1. Whether the IRS must comply with the TEFRA unified audit and litigation procedures for Jewell Dubin's partnership items, given her husband's bankruptcy.
2. Whether the IRS's deficiency notice to Jewell Dubin was valid, considering the TEFRA procedures had not been completed.

Holding

1. Yes, because the regulations treat spouses with a joint interest in a partnership as separate partners for TEFRA purposes, and the bankruptcy rule applies only to the

bankrupt partner, not the non-bankrupt spouse.
2. No, because the notice was issued before the completion of partnership-level proceedings required by TEFRA, and thus was invalid as to Jewell Dubin.

Court's Reasoning

The court analyzed the interplay between Section 6231(a)(12) of the Internal Revenue Code, which generally treats spouses with a joint interest in a partnership as one person, and the regulations that provide exceptions to this rule. The court found that Section 301. 6231(a)(12)-1T(a) of the Temporary Procedural and Administrative Regulations treats such spouses as separate partners for TEFRA purposes. The bankruptcy rule (Section 301. 6231(c)-7T(a)) applies only to the partner in bankruptcy, not to the non-bankrupt spouse. Therefore, the IRS was required to follow TEFRA procedures for Jewell Dubin, as her husband's bankruptcy did not affect her separate partner status. The court concluded that the IRS's notice of deficiency was invalid because it was issued before the completion of required partnership-level proceedings, as mandated by TEFRA.

Practical Implications

This decision has significant implications for the application of TEFRA procedures to spouses with joint partnership interests. It clarifies that each spouse must be treated as a separate partner for TEFRA purposes, unless specified otherwise by regulation. This means that the IRS must complete partnership-level proceedings before issuing a deficiency notice to a non-bankrupt spouse, even if the other spouse is in bankruptcy. Practitioners should ensure compliance with TEFRA procedures for each spouse in such cases. The ruling may lead to increased complexity in handling joint returns where one spouse is bankrupt, requiring careful consideration of each spouse's partnership items separately. Subsequent cases, such as those involving similar bankruptcy scenarios, may reference Dubin to determine the applicability of TEFRA procedures to non-bankrupt spouses.

