FMC Corp. v. Commissioner, 100 T. C. 595 (1993)

The decision clarifies that DISC export receipts must be aggregated when a taxpayer controls multiple DISCs, and that the Outer Continental Shelf is considered within the United States for DISC purposes.

Summary

FMC Corp. challenged the IRS's determination on the tax treatment of its DISC operations. The case addressed whether industrial cranes used on oil platforms in the Gulf of Mexico qualified as used 'outside the United States' for DISC benefits, and whether FMC was required to aggregate export receipts from multiple DISCs for calculating deemed distributions. The Tax Court held that the cranes were not used outside the U. S. , as the Outer Continental Shelf is considered part of the U. S. for DISC purposes. Additionally, FMC was required to aggregate export receipts from all its DISCs to prevent manipulation of the deemed distribution calculations, even if it resulted in double-counting.

Facts

FMC Corp. manufactured industrial cranes sold through its DISC, FMC Export Corp. , to U. S. companies for use on oil platforms in the Gulf of Mexico's Outer Continental Shelf. FMC also owned other DISCs and had sold several manufacturing divisions to unrelated parties. The IRS disallowed FMC's deduction of commissions paid to FMC Export, arguing the cranes were not used outside the U. S. and required FMC to aggregate export receipts from all its DISCs for deemed distribution calculations.

Procedural History

FMC filed a petition in the U. S. Tax Court challenging the IRS's determination of deficiencies in its corporate income taxes for several years. The court considered three issues related to DISC provisions after the parties settled other issues.

Issue(s)

1. Whether industrial cranes used on oil drilling platforms attached to the Outer Continental Shelf in the Gulf of Mexico were used 'outside the United States' for DISC purposes.
2. Whether FMC is required to aggregate base period export receipts of a DISC it acquired in 1976 with those of other DISCs it owned for calculating deemed distributions.
3. Whether FMC must include in its base period export receipts the receipts generated by manufacturing businesses it sold during the years in issue with those of other DISCs it continued to own.

Holding

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1. No, because the cranes were used on the Outer Continental Shelf, which is considered part of the United States under the relevant tax code provisions.
2. Yes, because the aggregation requirement applies whenever a taxpayer controls multiple DISCs during the current year, preventing manipulation of deemed distribution calculations.
3. Yes, because after a separation of ownership between a DISC and its underlying trade or business, both the new owner of the business and the owner of the DISC must include the DISC's base period export receipts in their calculations, despite potential double-counting.

Court's Reasoning

The court interpreted the statutory language to determine that the use of cranes on oil platforms on the Outer Continental Shelf did not qualify as 'outside the United States' under Section 993(c)(1)(B), as Section 638 includes the Outer Continental Shelf within the U. S. for activities related to natural deposits. For the DISC aggregation issue, the court emphasized that Section 995(e)(8) requires aggregation of export receipts from all controlled DISCs to prevent mismatching of current and base period receipts, regardless of the underlying business's status. The court also upheld the regulation requiring double-counting of base period export receipts post-separation of ownership, as supported by the legislative history of Section 995(e)(9), to prevent manipulation of deemed distribution calculations.

Practical Implications

This decision affects how companies structure their DISC operations and calculate deemed distributions. It clarifies that equipment used on the Outer Continental Shelf does not qualify for DISC benefits as 'export property. ' Taxpayers must aggregate export receipts from all controlled DISCs to prevent tax planning that could manipulate deemed distribution calculations. The ruling also confirms that double-counting of export receipts is permissible to prevent tax avoidance through the separation of DISC ownership from the underlying business. Subsequent cases have applied these principles to similar DISC arrangements and tax planning strategies.

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