Richard L. Simon and Fiona Simon, Petitioners v. Commissioner of Internal Revenue, Respondent, 103 T. C. 247 (1994)

Actively used assets with intrinsic value can be depreciated under ACRS if they suffer wear and tear in a business context.

Summary

Richard and Fiona Simon, professional violinists, claimed depreciation on two 19th-century violin bows under the Accelerated Cost Recovery System (ACRS). The Commissioner disallowed the deductions, arguing the bows were nondepreciable works of art. The Tax Court ruled in favor of the Simons, holding that the bows were tangible personal property used in their business and subject to wear and tear, thus qualifying as depreciable 'recovery property' under ACRS. The decision emphasized that the bows' active use in the Simons' professional activities justified depreciation, despite their potential as collectibles.

Facts

Richard and Fiona Simon are professional violinists who purchased two antique violin bows made by François Xavier Tourte in 1985 for $30,000 and $21,500, respectively. They used these bows regularly and extensively in their performances with the New York Philharmonic and other engagements. The bows, which were in excellent condition at the time of purchase, experienced wear and tear from regular use. The Simons claimed depreciation deductions for these bows under ACRS on their 1989 tax return, which the Commissioner challenged, arguing that the bows were nondepreciable works of art due to their age and collectible value.

Procedural History

The Simons filed a petition with the U. S. Tax Court after the Commissioner issued a notice of deficiency disallowing their depreciation deductions. The parties stipulated all issues except the depreciation of the Tourte bows. The Tax Court heard the case and issued a decision allowing the Simons to depreciate the bows under ACRS.

Issue(s)

1. Whether the antique violin bows used by professional musicians in their trade or business are depreciable under the Accelerated Cost Recovery System (ACRS)?

Holding

1. Yes, because the bows are tangible personal property placed in service after 1980, used in the Simons' trade or business, and subject to wear and tear, thus qualifying as 'recovery property' under ACRS.

Court's Reasoning

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The court applied the rules of ACRS under Section 168 of the Internal Revenue Code, which allows depreciation of tangible property used in a trade or business that is subject to wear and tear. The court found that the bows were not mere collectibles but essential tools actively used by the Simons in their profession. The court rejected the Commissioner's argument that the bows' potential as works of art rendered them nondepreciable, emphasizing that their use in the Simons' business subjected them to physical deterioration. The court also distinguished prior cases like Browning and Clinger, noting that those involved passive use of assets, unlike the active use of the bows here. The court further noted that ACRS was intended to simplify depreciation and eliminate disputes over useful life, which supported allowing depreciation on the actively used bows.

Practical Implications

This decision clarifies that assets with both business and collectible value can be depreciated under ACRS if they are actively used in a trade or business and suffer wear and tear. It impacts how professionals, particularly in fields involving specialized tools or instruments, can claim depreciation on items that may also have intrinsic value. The ruling may encourage similar claims by other professionals, such as artists or musicians, for depreciation on their tools of trade. It also sets a precedent for distinguishing between passive and active use of assets in determining depreciation eligibility. Subsequent cases have referenced Simon in analyzing the depreciation of assets with dual business and collectible value, often citing it to support claims of depreciation where active business use can be demonstrated.

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