104 T.C. 472 (1995)

A Treasury Regulation interpreting a statute is valid if it harmonizes with the statute's plain language, origin, and purpose, and represents a reasonable construction, even if not the only possible interpretation.

Summary

Western Waste Industries challenged a Treasury Regulation that denied fuel tax credits for diesel fuel used in single-motor highway vehicles, even when a portion of the fuel powered auxiliary equipment via a power take-off unit. Western Waste argued the regulation was invalid because it taxed fuel not used for propulsion. The Tax Court upheld the regulation, finding it a reasonable interpretation of 26 U.S.C. § 4041. The court reasoned that the statute taxes fuel used "in" highway vehicles, not just fuel for propulsion, and the regulation reasonably distinguishes between single and dual-motor vehicles for administrative convenience and to prevent tax avoidance.

Facts

Western Waste Industries operated diesel-powered trucks registered for highway use. These trucks had a single motor that propelled the vehicle and powered a hydraulic system for refuse collection via a power take-off unit. Western Waste claimed fuel tax credits for the portion of fuel used to operate the hydraulic systems, arguing it was not used for propulsion. The Commissioner of Internal Revenue disallowed these credits, citing Treasury Regulation § 48.4041-7, which taxes all fuel used in a single-motor vehicle, regardless of whether it powers auxiliary equipment.

Procedural History

The Commissioner of Internal Revenue issued a notice of deficiency disallowing Western Waste's fuel tax credits. Western Waste petitioned the Tax Court, challenging the deficiency. The case was submitted fully stipulated to the Tax Court.

Issue(s)

1. Whether Treasury Regulation § 48.4041-7 is a valid interpretation of 26 U.S.C. § 4041, which imposes a tax on diesel fuel used in highway vehicles.
2. Whether the regulation improperly expands the scope of 26 U.S.C. § 4041 by taxing all fuel used in single-motor vehicles, even when a portion powers auxiliary equipment and is not used for propulsion.

Holding

1. Yes, Treasury Regulation § 48.4041-7 is a valid interpretation of 26 U.S.C. § 4041 because it is a reasonable construction of the statute and harmonizes with its language, origin, and purpose.

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2. No, the regulation does not improperly expand the statute. The statute taxes fuel used "in" highway vehicles, and the regulation's distinction between single and dual-motor vehicles is a reasonable administrative approach.

Court's Reasoning

The Tax Court applied the principle that Treasury Regulations are valid unless "unreasonable and plainly inconsistent with the revenue statutes," citing *Bingler v. Johnson*, 394 U.S. 741 (1969). The court noted that interpretative regulations, like § 48.4041-7, are given deference if reasonable, quoting *Cottage Sav. Association v. Commissioner*, 499 U.S. 554 (1991): "we must defer to his regulatory interpretations of the [Internal Revenue] Code so long as they are reasonable".

The court examined the plain language of 26 U.S.C. § 4041(a)(1), which taxes diesel fuel "sold…for use as a fuel in such vehicle, or…used by any person as a fuel in a diesel-powered highway vehicle". It found that the statute taxes fuel used "in" a vehicle, not just fuel used "for propulsion". The court rejected Western Waste's argument that "used…as a fuel in" should be read as "used…for the propulsion of", pointing out that the statute has taxed all diesel fuel used "in" highway vehicles since 1951.

The court addressed Western Waste's reliance on the *National Muffler Dealers Association, Inc. v. United States*, 440 U.S. 472 (1979) factors for assessing regulation validity (contemporaneity, consistency, etc.). While the regulation wasn't issued contemporaneously with the statute, it had been in effect for 34 years and consistently applied the single-motor vehicle rule. The court found the regulation provided "a liberal reading" of the statute by allowing a credit for fuel used in separate motors for auxiliary equipment.

The court concluded that the regulation's distinction between single and dual-motor vehicles was a reasonable administrative convenience to avoid complex fuel allocation issues and potential tax avoidance. Quoting *Skinner v. Mid-America Pipeline Co.*, 490 U.S. 212 (1989), the court emphasized, "The choice among reasonable interpretations of the Internal Revenue Code is for the Commissioner, not the courts."

Practical Implications

Western Waste Industries reinforces the principle of deference to Treasury Regulations in tax law, particularly interpretative regulations. It clarifies that the excise tax on diesel fuel for highway vehicles applies broadly to fuel used "in" the vehicle, not just for propulsion. Practically, this case means businesses operating single-motor vehicles with power take-off units cannot claim fuel tax credits for the fuel powering auxiliary equipment. To obtain a credit, businesses must use a separate motor for auxiliary equipment with a separate fuel source or demonstrate a reasonable allocation method if fuel is drawn from a common tank, as per the

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regulation. This decision highlights the importance of understanding the specific language of tax statutes and the validity of regulations interpreting them, even if those regulations are not the only possible interpretations.

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