Pert v. Commissioner, 105 T. C. 370 (1995)

A transferee or successor transferee is bound by a closing agreement made by the transferor under IRC Section 7121, except on grounds of fraud, malfeasance, or misrepresentation of material fact.

Summary

Harvey Pert, as a transferee of assets from Kathleen Pert and a successor transferee of assets from the estate of her deceased husband, Timothy Riffe, sought to contest their tax liabilities established by closing agreements. The Tax Court held that Pert, as a transferee, is bound by the closing agreements made by Kathleen Pert and the estate of Timothy Riffe, except on grounds available to the parties to the agreements. Additionally, the court ruled that the statute of limitations did not bar the assessment of transferee liability against Pert for 1986 due to fraud on the joint return. This case established that transferees are bound by transferors' closing agreements, impacting how transferee liability cases are analyzed.

Facts

Timothy Riffe and Kathleen Pert filed joint tax returns for 1986, 1988, and 1989. After Timothy's death in 1991, Kathleen, as his estate's personal representative, entered into closing agreements with the IRS for those years, agreeing to tax deficiencies and fraud penalties for Timothy but not for herself. Kathleen later married Harvey Pert, who received assets from her and Timothy's estate. The IRS sought to hold Pert liable as a transferee and successor transferee for the tax liabilities of Kathleen and Timothy's estate, respectively.

Procedural History

The IRS issued notices of transferee liability to Pert, who then petitioned the Tax Court. The IRS moved for partial summary judgment, asserting that Pert could not contest the tax liabilities established by the closing agreements and that the statute of limitations did not bar the assessment of transferee liability for 1986. The Tax Court granted the IRS's motions.

Issue(s)

1. Whether Harvey Pert, as a transferee or successor transferee, may contest the tax liabilities established by closing agreements between Kathleen Pert, the estate of Timothy Riffe, and the IRS.
2. Whether the statute of limitations bars the assessment of transferee liability against Pert for the tax year 1986.

Holding

1. No, because a transferee or successor transferee is bound by a transferor's

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closing agreement under IRC Section 7121, except on grounds of fraud, malfeasance, or misrepresentation of material fact.
2. No, because the statute of limitations remains open for assessing transferee liability for 1986 due to fraud on the joint return filed by Timothy Riffe and Kathleen Pert.

Court's Reasoning

The court reasoned that IRC Section 7121(b) makes closing agreements final and conclusive, except upon a showing of fraud, malfeasance, or misrepresentation of material fact. The court analogized the binding effect of closing agreements to res judicata, noting that transferees are in privity with transferors and thus bound by their agreements. The court rejected Pert's argument that he was not in privity with Timothy's estate, stating that as a transferee or successor transferee, he was bound by the closing agreements. Regarding the statute of limitations, the court held that the fraud on the 1986 return kept the period open indefinitely for assessing transferee liability.

Practical Implications

This decision clarifies that transferees and successor transferees are bound by closing agreements made by transferors, limiting their ability to contest tax liabilities established by such agreements. Attorneys should advise clients on the potential tax liabilities they may inherit as transferees and the finality of closing agreements. This ruling may influence how the IRS pursues transferee liability and how taxpayers structure asset transfers to minimize tax exposure. Subsequent cases have applied this principle, reinforcing the binding nature of closing agreements on transferees.

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