Intermet Corp. & Subsidiaries v. Commissioner, 111 T. C. 294 (1998)

Specified liability losses (SLLs) cannot be carried back in a consolidated return if they were not taken into account in computing the consolidated net operating loss (CNOL).

Summary

Intermet Corp. sought to carry back certain expenses from 1992 to 1984, claiming them as specified liability losses under IRC section 172(f). The Tax Court held that these expenses did not qualify for the 10-year carryback because they were not taken into account in computing the CNOL for the year. The court clarified that under the consolidated return regulations, SLLs are netted against a member's separate taxable income before being considered for the group's CNOL. Since Lynchburg Foundry Co. , a member of the group, had separate taxable income in 1992, its SLL deductions were absorbed and could not be used to offset income in carryback years.

Facts

Intermet Corp. , the common parent of an affiliated group, filed consolidated Federal income tax returns for the years 1984 through 1993. In 1992, the group reported a consolidated net operating loss (CNOL) of $25,701,038. Lynchburg Foundry Co. , a member of the group, paid state tax deficiencies, interest on those deficiencies, and interest on a Federal income tax deficiency in 1992. These payments were claimed as specified liability losses (SLLs) and were sought to be carried back to 1984. Lynchburg had separate taxable income of $3,940,085 in 1992, after accounting for these deductions.

Procedural History

Intermet filed an amended return in October 1994, claiming a carryback of $1,227,973 in SLLs to 1984. The IRS issued a notice of deficiency on March 14, 1997, disallowing the carryback except for $49,818 attributed to another group member. Intermet conceded $208,949. 77 of the carryback, leaving $1,019,205. 23 in dispute, all attributable to Lynchburg's claimed SLLs. The case was submitted to the U. S. Tax Court on stipulated facts, leading to the court's decision.

Issue(s)

1. Whether certain expenditures incurred by Lynchburg Foundry Co. qualify as "specified liability losses" within the meaning of IRC section 172(f), for purposes of the 10-year carryback provided in IRC section 172(b)(1)(C)?
2. If so, to what extent may the specified liability losses be carried back by the consolidated group?

Holding

© 2025 SCOTUSreports.com. All rights reserved.

1. No, because the expenses were not taken into account in computing the net operating loss for the year as required by IRC section 172(f)(1).
2. Not applicable, as the court held that the expenses did not qualify as SLLs.

Court’s Reasoning

The court applied the consolidated return regulations, specifically sections 1. 1502-21A and 1. 1502-12, to determine that SLLs must be netted against a member’s separate taxable income before being considered for the group’s CNOL. Since Lynchburg had separate taxable income in 1992, its SLL deductions were absorbed by its income and could not contribute to the group’s CNOL. The court emphasized that the regulations do not treat SLLs as a consolidated item, rejecting the concept of a “consolidated specified liability loss. ” The court also noted that deductions absorbed by current income cannot be used again in carryback years. The decision was based on the plain language of the regulations and the principle that deductions are construed narrowly.

Practical Implications

This decision clarifies that in consolidated returns, SLLs are not treated on a group-wide basis but are subject to netting against each member’s separate taxable income. Tax practitioners must ensure that SLLs are not absorbed by a member’s income before claiming them in a CNOL carryback. This ruling affects how corporations within a consolidated group should structure their tax planning to maximize the use of SLLs. It also underscores the importance of understanding the interplay between IRC section 172 and the consolidated return regulations. Subsequent cases, such as Amtel Inc. v. United States, have reinforced the principle that certain types of losses are not to be treated on a consolidated basis without specific statutory or regulatory direction.

© 2025 SCOTUSreports.com. All rights reserved.