***Weiss v. Commissioner, 129 T. C. 175, 2007 U. S. Tax Ct. LEXIS 37, 129 T. C. No. 18 (2007)***

In Weiss v. Commissioner, the U. S. Tax Court ruled that qualified dividends must be included in the calculation of alternative minimum taxable income (AMTI) for the purpose of determining alternative minimum tax (AMT). The decision clarifies that while qualified dividends receive special tax treatment under certain circumstances, they cannot be entirely excluded from AMTI. This ruling ensures consistent application of tax laws and reinforces the importance of statutory interpretation over tax form ambiguities.

**Parties**

Tobias Weiss and Gertrude O. Weiss, as petitioners, filed against the Commissioner of Internal Revenue, as respondent, in the United States Tax Court.

**Facts**

Tobias and Gertrude Weiss, residents of Connecticut, filed their 2005 Form 1040, reporting $24,376 in qualified dividends on line 9b. They calculated tax on these dividends at a 15% rate, reporting it separately on line 45 of the form, which is designated for alternative minimum tax. The Weisses did not include the qualified dividends in their taxable income of $265,408, which they used to compute their regular tax of $68,609. The Commissioner treated the omission of qualified dividends from taxable income as a math error and reassessed the Weisses' taxable income at $315,532, leading to a summary assessment of additional tax under section 6213(b). The Commissioner also issued a statutory notice of deficiency for $6,073, based on the recomputation of their alternative minimum tax.

**Procedural History**

The Weisses petitioned the U. S. Tax Court after receiving the statutory notice of deficiency from the Commissioner. The court had jurisdiction over the deficiency determination but not the summary assessment made under section 6213(b). The parties stipulated all relevant facts, and the case proceeded to trial where the Weisses conceded other math errors related to their Schedule E expenses and Social Security income calculations.

**Issue(s)**

Whether qualified dividends must be included in the calculation of alternative minimum taxable income (AMTI) for the purpose of determining alternative minimum tax (AMT).

**Rule(s) of Law**

Alternative minimum tax is imposed in addition to other taxes upon a taxpayer's

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alternative minimum taxable income (AMTI), as defined in section 55(a) of the Internal Revenue Code. AMTI is calculated as the taxpayer's taxable income with adjustments and increased by items of tax preference as provided in sections 56, 57, and 58. Taxable income is defined as gross income minus allowable deductions per section 63(a), and gross income includes dividends under section 61(a)(7).

**Holding**

The U. S. Tax Court held that qualified dividends must be included in the calculation of alternative minimum taxable income for determining alternative minimum tax, as they are part of the taxpayer's gross income.

**Reasoning**

The court's reasoning centered on the statutory definitions and the structure of the Internal Revenue Code. The court emphasized that alternative minimum tax is calculated on alternative minimum taxable income, which is derived from taxable income, and that taxable income includes gross income, of which dividends are a part. The court rejected the Weisses' argument that qualified dividends could be omitted from AMTI because they receive special treatment under certain tax provisions. The court clarified that the special treatment of qualified dividends relates to the rate at which they are taxed under section 1(h) and does not exclude them from AMTI. The court also noted that any ambiguity in the tax forms or instructions cannot override the clear language of the tax statutes. The court referenced prior cases such as Allen v. Commissioner and Merlo v. Commissioner to support its interpretation of AMTI and the inclusion of dividends therein.

**Disposition**

The U. S. Tax Court entered a decision in favor of the Commissioner, affirming the inclusion of qualified dividends in the calculation of alternative minimum taxable income and the resulting deficiency determination.

**Significance/Impact**

The Weiss case is significant for its clarification of the treatment of qualified dividends in the calculation of alternative minimum taxable income. It reinforces the principle that statutory language governs tax obligations, regardless of any perceived ambiguity in tax forms or instructions. The decision has practical implications for taxpayers, ensuring that qualified dividends are consistently included in AMTI calculations, which may affect the incidence of alternative minimum tax liability. Subsequent courts have followed this precedent, and it remains relevant for tax practitioners advising clients on AMT calculations and planning.

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