Kaufman v. Commissioner, 134 T. C. 182 (U. S. Tax Ct. 2010)

In Kaufman v. Commissioner, the U. S. Tax Court ruled that a facade easement donation was not deductible as a charitable contribution because it was not protected in perpetuity due to a prior mortgage claim. This decision underscores the strict requirements for qualifying conservation easements under tax law, denying deductions for facade easements when future proceeds are not guaranteed to the donee. The case highlights the necessity for clear legal rights to ensure perpetuity in conservation easement contributions.

Parties

Gordon and Lorna Kaufman (Petitioners) v. Commissioner of Internal Revenue (Respondent). The Kaufmans were the petitioners at both the trial and appeal levels in the U. S. Tax Court.

Facts

In December 2003, Gordon and Lorna Kaufman contributed a facade easement and cash to the National Architectural Trust (NAT). The property in question was a single-family rowhouse in a historic preservation district in Boston, Massachusetts, which was subject to a mortgage held by Washington Mutual Bank, FA. The Kaufmans claimed a charitable contribution deduction of $220,800 for the facade easement on their 2003 federal income tax return, with a carryover deduction of $117,423 claimed in 2004 due to limitations under section 170(b)(1)(C). They also claimed a deduction of $16,870 for the cash contribution, despite it being only $16,840. The Commissioner disallowed these deductions, leading to deficiencies and proposed accuracy-related penalties under sections 6662(a) and 6662(h).

Procedural History

The Commissioner moved for summary judgment in the U. S. Tax Court to disallow the charitable contribution deductions and impose penalties. The Kaufmans objected to the motion. The Tax Court, applying the standard of review under Rule 121(b), granted summary judgment with respect to the facade easement contribution, finding no genuine issue of material fact regarding its non-compliance with the perpetuity requirement. However, the court denied the motion with respect to the cash contribution and the penalties, finding genuine issues of material fact that needed to be resolved at trial.

Issue(s)

1. Whether the facade easement contribution satisfied the requirement of being protected in perpetuity under section 170(h) and section 1. 170A-14(g)(6)(ii) of the Income Tax Regulations, thereby qualifying as a charitable contribution deduction?
2. Whether the cash contribution was a conditional gift or part of a quid pro quo, and thus not deductible under section 1. 170A-1(e) of the Income Tax Regulations or

© 2025 SCOTUSreports.com. All rights reserved.

the rule of Hernandez v. Commissioner?
3. Whether the accuracy-related penalties under sections 6662(a) and 6662(h) should be imposed on the Kaufmans for the disallowed deductions?

Rule(s) of Law

1. Section 170(f)(3) generally denies a deduction for a contribution of an interest in property that is less than the taxpayer's entire interest, with an exception for qualified conservation contributions under section 170(f)(3)(B)(iii).
2. Section 170(h)(1) requires a qualified conservation contribution to be a contribution of a qualified real property interest exclusively for conservation purposes, protected in perpetuity as per sections 170(h)(2)(C) and 170(h)(5)(A).
3. Section 1. 170A-14(g)(6)(ii) of the Income Tax Regulations mandates that the donor must agree that the donation gives rise to a property right vested in the donee with a fair market value proportional to the conservation restriction, and the donee must be entitled to a proportionate share of proceeds upon extinguishment.
4. Section 1. 170A-1(e) of the Income Tax Regulations denies a deduction for conditional gifts unless the possibility of the transfer not becoming effective is so remote as to be negligible.
5. The rule in Hernandez v. Commissioner denies a charitable contribution deduction for transfers that are part of a quid pro quo.
6. Section 6662 imposes accuracy-related penalties for negligence, substantial understatement of income tax, substantial valuation misstatement, and gross valuation misstatement.
7. Section 6664(c)(1) provides an exception to accuracy-related penalties if the taxpayer shows reasonable cause and good faith, with reliance on professional advice being considered reasonable cause under section 1. 6664-4(b)(1) and (c) of the Income Tax Regulations.

Holding

1. The facade easement contribution did not satisfy the perpetuity requirement under section 170(h) and section 1. 170A-14(g)(6)(ii) of the Income Tax Regulations, and thus was not a qualified conservation contribution. The Kaufmans were not entitled to any deduction for the facade easement.
2. The court found genuine issues of material fact regarding the cash contribution, precluding summary judgment on whether it was a conditional gift or part of a quid pro quo.
3. Genuine issues of material fact existed regarding the applicability of the reasonable cause exception to the accuracy-related penalties under section 6662(a), preventing summary judgment on the penalties.

Reasoning

The Tax Court's decision regarding the facade easement was based on the strict interpretation of section 1. 170A-14(g)(6)(ii), which requires the donee organization

© 2025 SCOTUSreports.com. All rights reserved.

to be entitled to a proportionate share of proceeds upon extinguishment. The court found that the prior mortgage claim on the property prevented the facade easement from being protected in perpetuity, as NAT's right to future proceeds was not guaranteed. This ruling reflects the court's adherence to the statutory and regulatory requirement that conservation easements must be enforceable in perpetuity to qualify for a charitable contribution deduction.

For the cash contribution, the court considered whether it was a conditional gift or part of a quid pro quo. The Kaufmans argued that the possibility of the charitable transfer not becoming effective was negligible, invoking the exception in section 1. 170A-1(e). The court found this to be a factual issue requiring trial. Similarly, the court was not convinced that the cash contribution was payment for a service under Hernandez, leaving this issue for trial.

Regarding the penalties, the court accepted the Commissioner's concession that the gross valuation misstatement penalty would not apply if the facade easement was disallowed. The court then focused on the applicability of the reasonable cause exception under section 6664(c)(1). The Kaufmans' reliance on their accountant's advice and their good faith belief in the legitimacy of their deductions raised genuine issues of material fact, preventing summary judgment on the penalties.

The court's analysis demonstrates a careful application of statutory and regulatory requirements, emphasizing the need for clear legal rights in conservation easement contributions and the factual nature of defenses against penalties.

Disposition

The U. S. Tax Court granted the Commissioner's motion for summary judgment with respect to the facade easement contribution, disallowing the charitable contribution deduction. The court denied the motion with respect to the cash contribution and the accuracy-related penalties, leaving these issues for trial.

Significance/Impact

Kaufman v. Commissioner has significant implications for the structuring and deductibility of conservation easements. The decision reinforces the strict requirement that a conservation easement must be protected in perpetuity to qualify for a charitable contribution deduction, particularly when the property is subject to a mortgage. This ruling may lead to increased scrutiny and careful planning in the drafting of conservation easement agreements to ensure compliance with the perpetuity requirement.

Furthermore, the case highlights the importance of factual inquiries in determining the deductibility of conditional gifts and the applicability of penalty defenses. It underscores the need for taxpayers to document their reliance on professional advice and demonstrate good faith to avoid accuracy-related penalties.

© 2025 SCOTUSreports.com. All rights reserved.

The decision may influence future cases involving similar issues, potentially leading to more conservative approaches by donors and donee organizations in structuring conservation easement contributions to ensure compliance with tax law requirements.

© 2025 SCOTUSreports.com. All rights reserved.