National Education Association of the United States v. Commissioner of Internal Revenue, 137 T. C. 100 (2011)

In a significant ruling, the U. S. Tax Court clarified that tax-exempt organizations must allocate a portion of membership dues to circulation income if members have a legal right to receive organization periodicals. The National Education Association (NEA) had argued that its members did not have such a right due to the availability of the content online, but the court disagreed. This decision impacts how tax-exempt organizations calculate their unrelated business income tax (UBIT) and reinforces the IRS's position on the allocation of dues to circulation income.

Parties

The Petitioner in this case was the National Education Association of the United States (NEA), represented by attorneys Miriam L. Fisher and Theodore J. Wu. The Respondent was the Commissioner of Internal Revenue, represented by attorneys Robin W. Denick and Catherine R. Chastanet.

Facts

The NEA, a tax-exempt labor organization under IRC section 501(c)(5), published two magazines, NEA Today and This Active Life, during the fiscal years ending August 31, 2001, 2002, and 2003. These magazines were distributed to dues-paying members, who received them as a benefit of membership. The magazines were also available to a limited number of non-member subscribers and the general public via the Internet, although the online versions did not include all content from the print editions. NEA's total membership dues exceeded $300 million annually, and it earned approximately $1 million in net profit each year from advertising in the magazines. NEA reported negligible circulation income, claiming substantial losses to offset its advertising profits and thus reported no unrelated business income tax (UBIT).

Procedural History

The IRS issued a notice of deficiency on June 25, 2009, determining that NEA owed UBIT for the fiscal years ending August 31, 2001, 2002, and 2003, due to its failure to allocate a portion of membership dues to circulation income. NEA filed a petition with the U. S. Tax Court, challenging the IRS's determination. The case was submitted fully stipulated pursuant to Tax Court Rule 122, and the court's decision was based on the interpretation of 26 C. F. R. section 1. 512(a)-1(f)(3)(iii).

Issue(s)

Whether, for purposes of 26 C. F. R. section 1. 512(a)-1(f)(3)(iii), membership in NEA gave members "the right to receive" NEA periodicals, thus requiring NEA to allocate a portion of its members' dues to circulation income?

© 2025 SCOTUSreports.com. All rights reserved.

Rule(s) of Law

Under 26 C. F. R. section 1. 512(a)-1(f)(3)(iii), “Where the right to receive an exempt organization periodical is associated with membership or similar status in such organization for which dues, fees or other charges are received, circulation income includes the portion of such membership receipts allocable to the periodical. “

Holding

The Tax Court held that NEA’s members had a legal “right to receive” the magazines, as per the organization’s bylaws and the representations made by its affiliates. Therefore, NEA was required to allocate a portion of its members’ dues to circulation income, as per 26 C. F. R. section 1. 512(a)-1(f)(3)(iii).

Reasoning

The court analyzed the term “right to receive” and determined that it must be a legal right, not merely a moral or just claim. NEA’s bylaws stated that members were “eligible to receive” the association’s publications, and its affiliates’ enrollment forms indicated that a specific portion of dues was allocated to the magazines. The court rejected NEA’s argument that the availability of the magazines online negated this right, noting that the print editions contained additional content and that NEA continued to incur significant costs to produce them. The court also referenced *American Medical Association v. United States*, where the Seventh Circuit held that dues were allocable to circulation income even when members could receive the publications through other means. The court concluded that the legal right to receive the periodicals was established by NEA’s governing documents and its practices, and that the online availability of the content did not change this conclusion.

Disposition

The court ruled in favor of the IRS, requiring NEA to allocate a portion of its members’ dues to circulation income as determined by the IRS. The decision was entered under Tax Court Rule 155.

Significance/Impact

This case sets a precedent for how tax-exempt organizations must calculate their circulation income and UBIT when members have a legal right to receive organization periodicals. It clarifies that the availability of content through alternative means does not negate this right. The decision reinforces the IRS’s position on the allocation of dues to circulation income and may impact the tax planning and reporting practices of similar organizations. Subsequent courts have cited this case when addressing similar issues, and it remains a key authority on the interpretation of the relevant tax regulations.

© 2025 SCOTUSreports.com. All rights reserved.