Foster v. Commissioner, 137 T. C. 164 (U. S. Tax Court 2011)

In Foster v. Commissioner, the U. S. Tax Court ruled that the Fosters could not claim a first-time homebuyer credit for their 2009 purchase, as they had not been without a principal residence for the required three-year period. The court emphasized that despite listing their old house for sale and spending time elsewhere, their continued use and ties to the old house meant it remained their principal residence. This decision underscores the importance of factual analysis in determining eligibility for tax credits based on residence status.

Parties

Francis and Maureen Foster, Petitioners, v. Commissioner of Internal Revenue, Respondent.

Facts

In 1974, Francis and Maureen Foster purchased a residence in Western Springs, Illinois (old house). In February 2006, they listed the old house for sale and began spending considerable time at Mrs. Foster's parents' house in La Grange Park, Illinois (parents' house), without paying rent or utilities there. Mrs. Foster renewed her driver's license on April 6, 2006, listing the old house address. The Fosters also used this address on their 2005 federal tax return filed on October 16, 2006. During 2006 and 2007, the old house remained fully furnished, with the Fosters maintaining utility services, frequently staying overnight, hosting family holiday gatherings, keeping personal belongings, using the Internet, and receiving bills and correspondence there. On April 7, 2007, the Fosters signed a contract to sell the old house, and later that month, they listed the old house as their current address on an apartment rental application. They finalized the sale on June 6, 2007, and purchased a new residence in Brookfield, Illinois, on July 28, 2009. On their 2008 joint federal income tax return, the Fosters claimed an $8,000 first-time homebuyer credit (FTHBC) for the new house, which the Commissioner disallowed, leading to a notice of deficiency and a timely filed petition to the Tax Court on July 23, 2010.

Procedural History

The Commissioner issued a notice of deficiency to the Fosters disallowing their claim for the FTHBC. The Fosters, residing in Illinois, timely filed a petition with the U. S. Tax Court on July 23, 2010, challenging the deficiency. The Tax Court, after considering the evidence and arguments presented, ruled in favor of the Commissioner, denying the FTHBC to the Fosters.

Issue(s)

Whether the Fosters, having owned and used their old house as their principal residence until June 6, 2007, were eligible for the first-time homebuyer credit under section 36 of the Internal Revenue Code for their purchase of a new residence on

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July 28, 2009?

Rule(s) of Law

Section 36(a) of the Internal Revenue Code allows a credit for a first-time homebuyer of a principal residence. A "first-time homebuyer" is defined as any individual (and their spouse) who had no present ownership interest in a principal residence during the three-year period ending on the date of the purchase of the new principal residence. Section 36(c)(1). The determination of whether a property is used as a principal residence depends on all facts and circumstances, including the address listed on tax returns and driver's licenses, and the mailing address for bills and correspondence. Section 1. 121-1(b)(2), Income Tax Regs.

Holding

The Tax Court held that the Fosters were not eligible for the first-time homebuyer credit under section 36 because their old house remained their principal residence until June 6, 2007, and thus, they did not satisfy the requirement of having no ownership interest in a principal residence for the three years prior to purchasing their new residence on July 28, 2009.

Reasoning

The court's reasoning hinged on the factual analysis of what constitutes a principal residence under the applicable tax regulations. The court noted that the Fosters continued to use the old house as their principal residence after February 2006, evidenced by their use of the old house address on their driver's license and tax returns, maintaining utilities, keeping personal belongings, and hosting family gatherings there. The court rejected the Fosters' argument that they ceased using the old house as their principal residence in February 2006, emphasizing that the totality of their actions and connections to the old house indicated otherwise. The court's decision underscores the necessity of a comprehensive factual inquiry in determining eligibility for tax credits based on residence status, and it highlights the stringent interpretation of what constitutes a principal residence under section 36. The court also noted that the burden of proof was immaterial to the outcome, as the decision was based on a preponderance of the evidence.

Disposition

The Tax Court entered a decision in favor of the Commissioner, disallowing the first-time homebuyer credit claimed by the Fosters.

Significance/Impact

Foster v. Commissioner is significant for its clarification of the criteria for determining a principal residence under section 36 of the Internal Revenue Code. The decision illustrates the Tax Court's strict interpretation of the three-year non-

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ownership requirement for the first-time homebuyer credit, emphasizing the importance of factual analysis over self-reported changes in residence status. This case has implications for taxpayers seeking similar tax credits, highlighting the need for clear and demonstrable evidence of a change in principal residence to meet eligibility criteria. It also serves as a precedent for future cases involving the interpretation of what constitutes a principal residence for tax purposes.

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