Guardian Industries Corp. v. Commissioner, 143 T. C. 1 (2014)

The U. S. Tax Court ruled that a fine paid by Guardian Industries Corp. to the European Commission for violating EC competition laws was not deductible under U. S. tax law. The court held that the European Commission is an instrumentality of the EC member states, thus qualifying as a foreign government under Section 162(f), which disallows deductions for fines paid to governments for legal violations.

Parties

Guardian Industries Corp. (Petitioner), a U. S. corporation, sought to deduct a fine paid to the European Commission (Respondent), an entity of the European Community (EC), from its 2008 federal income tax return. The Commissioner of Internal Revenue opposed the deduction, asserting the fine was paid to a foreign government under Section 162(f).

Facts

In 2008, Guardian Industries Corp. , a U. S. corporation, paid a €20 million fine to the European Commission for participating in a price-fixing cartel that violated the competition provisions of European Community (EC) law. Guardian subsequently claimed this payment as a deduction on its 2008 U. S. federal income tax return. The Internal Revenue Service (IRS) disallowed the deduction, citing Section 162(f) of the Internal Revenue Code, which precludes deductions for fines or penalties paid to a government for the violation of any law. The fine was imposed jointly on Guardian and its Luxembourg subsidiary, Guardian Europe S. à. r. l. , which was not part of the U. S. tax dispute.

Procedural History

Guardian filed a petition with the U. S. Tax Court challenging the IRS's disallowance of the deduction. The parties filed cross-motions for partial summary judgment on the issue of whether the payment to the European Commission was made "to a government" under Section 162(f). The Tax Court reviewed the case under a de novo standard, focusing on the legal question of the Commission's status as an instrumentality of a foreign government.

Issue(s)

Whether the European Commission is an "agency or instrumentality" of a "government of a foreign country" within the meaning of Section 1. 162-21(a) of the Income Tax Regulations, such that the €20 million fine paid by Guardian Industries Corp. to the Commission is nondeductible under Section 162(f) of the Internal Revenue Code?

Rule(s) of Law

© 2025 SCOTUSreports.com. All rights reserved.

Section 162(f) of the Internal Revenue Code disallows a deduction for “any fine or similar penalty paid to a government for the violation of any law. ” The Treasury Regulations at Section 1. 162-21(a) define “government” to include the government of a foreign country and any political subdivision, corporation, or other entity serving as an agency or instrumentality thereof. The court must interpret these regulations in line with statutory interpretation principles, including the canon that singular terms include the plural unless the context indicates otherwise (1 U. S. C. § 1).

Holding

The Tax Court held that the European Commission is an “instrumentality” of the EC member states, collectively considered as the “government of a foreign country” within the meaning of Section 1. 162-21(a) of the Income Tax Regulations. Consequently, the €20 million fine paid by Guardian Industries Corp. to the European Commission was nondeductible under Section 162(f) of the Internal Revenue Code.

Reasoning

The court reasoned that the term “government of a foreign country” can refer to a single government or multiple governments, thus encompassing the collective governments of EC member states. The court applied a functional approach to determine whether the Commission was an “agency or instrumentality” of these governments. This approach considered whether the Commission had been delegated sovereign powers, performed important governmental functions, and had the authority to act with the sanction of government behind it. The court found that the Commission met these criteria, as it was responsible for enforcing EC competition laws and its decisions were enforceable by member state governments. The court also drew support from the Second Circuit’s decision in *European Cmty. v. RJR Nabisco, Inc.* , which recognized the EC as an instrumentality of its member states for purposes of the Foreign Sovereign Immunities Act. The court rejected Guardian’s argument that the Commission must be subordinate to and controlled by an individual member state to qualify as an “agency or instrumentality,” noting that such an interpretation would render the term superfluous and contrary to the purpose of Section 162(f).

Disposition

The Tax Court granted the Commissioner’s motion for partial summary judgment and denied Guardian’s motion, holding that the €20 million fine paid to the European Commission was nondeductible under Section 162(f).

Significance/Impact

This decision clarifies the scope of Section 162(f) by affirming that fines paid to

© 2025 SCOTUSreports.com. All rights reserved.

entities created by multiple sovereigns, such as the European Commission, are nondeductible if those entities are deemed instrumentalities of foreign governments. The ruling aligns with the legislative purpose of preventing deductions for payments that violate public policy, regardless of whether the payment is made to a single government or a collective entity acting on behalf of multiple governments. This case may influence future interpretations of what constitutes an “agency or instrumentality” under U. S. tax law and could affect the tax treatment of penalties paid to international regulatory bodies.

© 2025 SCOTUSreports.com. All rights reserved.