Vichich v. Commissioner, 146 T. C. 186 (2016)

Nadine L. Vichich sought to offset her 2009 tax liability with an AMT credit from her late husband's 1998 stock option exercise. The Tax Court ruled that she could not, as tax credits are not transferable between spouses after the marriage ends, reinforcing the principle that tax benefits are personal to the taxpayer who incurs them. This decision clarifies the non-transferability of AMT credits and similar tax attributes upon the death of a spouse.

Parties

Nadine L. Vichich, as the petitioner, sought relief from the United States Tax Court against the Commissioner of Internal Revenue, the respondent, in a dispute over her eligibility to claim an alternative minimum tax (AMT) credit for the tax year 2009.

Facts

William Vichich exercised incentive stock options (ISOs) in 1998, which resulted in an AMT liability reported on a joint return filed with his then-wife, Marla Vichich. After his divorce from Marla in 2002, William married petitioner Nadine Vichich later that year. They merged finances and filed joint returns during their marriage. William passed away in 2004. Nadine filed a joint return as a surviving spouse for 2004 but did not claim the AMT credit carryforward from 2003. She later attempted to claim the AMT credit on her 2009 tax return, which stemmed from William's 1998 AMT liability.

Procedural History

Nadine Vichich filed her 2009 tax return claiming an AMT credit of $151,928. The IRS issued a refund but later sent a notice of deficiency disallowing the credit and asserting a tax deficiency of the same amount. Nadine contested this determination in the Tax Court, which heard the case under Rule 122 as a fully stipulated case. The Commissioner conceded the accuracy-related penalty initially asserted but maintained the disallowance of the AMT credit.

Issue(s)

Whether a surviving spouse is entitled to claim an AMT credit arising from the exercise of ISOs by her deceased spouse, which resulted in AMT liability reported on a joint return before their marriage?

Rule(s) of Law

The Internal Revenue Code imposes an AMT in addition to regular tax and allows a credit for AMT paid in prior years under section 53. Credits and deductions are generally non-transferable between taxpayers, as established by cases like *Calvin v. United States*, *Zeeman v. United States*, and *Rose v. Commissioner*. The merger of

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income for tax purposes between spouses is limited to the duration of the marriage, as per *Coerver v. Commissioner*.

Holding

The Tax Court held that Nadine Vichich was not entitled to use the AMT credit to offset her individual income tax liability for 2009, as tax credits are personal to the taxpayer who incurs them and are not transferable upon the death of a spouse.

Reasoning

The court's reasoning was grounded in the principle that tax attributes, including credits and deductions, are personal to the taxpayer who incurs them. The court drew parallels to cases involving the transferability of net operating losses (NOLs) between spouses, citing *Calvin*, *Zeeman*, and *Rose* to support its conclusion. The court noted that while married taxpayers filing joint returns may use NOLs to the full extent of their combined income during marriage, such losses cannot be used by one spouse after the marriage ends, particularly after the death of the other spouse. The court rejected Nadine's argument that sections 53(e) and (f) should be broadly construed to allow her to use the AMT credit, as these sections did not apply to her situation and did not change the non-transferability of tax credits. The court also noted the absence of any statutory or regulatory provision allowing the transfer of AMT credits to a surviving spouse.

Disposition

The court's decision was to enter a decision under Rule 155, affirming the Commissioner's disallowance of the AMT credit claimed by Nadine Vichich for the tax year 2009.

Significance/Impact

The *Vichich* case is significant in clarifying that AMT credits, like other tax attributes, are not transferable upon the death of a spouse. This ruling reinforces the principle that tax benefits are personal to the taxpayer who incurs them and cannot be used by another taxpayer, even a surviving spouse, after the marriage ends. The decision may impact estate planning and the treatment of tax attributes in the context of marriage and divorce, particularly regarding the use of AMT credits and similar tax benefits. It also highlights the need for clear statutory or regulatory guidance on the transferability of tax credits between spouses.

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