***Green Gas Delaware Statutory Trust v. Commissioner of Internal Revenue*, 147 T. C. 1 (2016)** (United States Tax Court, 2016).

The Tax Court ruled that Green Gas Delaware Statutory Trust and Pontiac Statutory Trust were ineligible for the majority of nonconventional source fuel credits under I. R. C. § 45K for 2005-2007, due to inadequate substantiation of landfill gas production and sales. The court clarified that untreated landfill gas qualifies as fuel, but the trusts failed to prove they had operational facilities capable of producing or selling the gas as required by law, and their documentation methods were deemed unreliable.

Parties

Green Gas Delaware Statutory Trust and Pontiac Statutory Trust (collectively, the Trusts) were the petitioners in this case. Methane Bio, LLC, served as the tax matters partner for Green Gas Delaware Statutory Trust, while Delaware Gas & Electric Inc. was the tax matters partner for Pontiac Statutory Trust. The Commissioner of Internal Revenue was the respondent.

Facts

The Trusts, formed under Delaware law, were involved in transactions purporting to produce and sell landfill gas (LFG) to Resource Technology Corp. (RTC), a related entity. Green Gas claimed credits under I. R. C. § 45K for LFG allegedly produced from 23 landfills in 2005, 2006, and 2007, while Pontiac Trust claimed credits for one landfill in 2006 and 2007. The Trusts entered into various agreements with RTC, including gas rights agreements (GRAs), gas sales agreements (GSAs), and operations and maintenance agreements (O&Ms), to facilitate the transactions. RTC faced financial distress and was under Chapter 7 bankruptcy by 2005, which impacted the Trusts' operations and agreements.

Procedural History

The IRS issued Final Partnership Administrative Adjustments (FPAAs) to Green Gas for 2005, 2006, and 2007, and to Pontiac Trust for 2006 and 2007, disallowing the claimed fuel credits and imposing accuracy-related penalties under I. R. C. § 6662. The Trusts filed petitions in the U. S. Tax Court seeking redetermination of these adjustments. The cases were consolidated for trial, briefing, and opinion. The court denied the Trusts' motion to shift the burden of proof to the Commissioner.

Issue(s)

Whether the Trusts are entitled to nonconventional source fuel credits under I. R. C. § 45K for the years in question, and whether they are liable for accuracy-related penalties under I. R. C. § 6662?

Rule(s) of Law

© 2025 SCOTUSreports.com. All rights reserved.

I. R. C. § 45K provides a credit for the production and sale of qualified fuels, such as gas produced from biomass, to an unrelated person. The facility producing the fuel must have been placed in service before July 1, 1998. The taxpayer must substantiate the production and sale of the qualified fuel to claim the credit. I. R. C. § 6662 imposes a penalty for substantial understatement of income tax or negligence.

Holding

The court held that the Trusts were not entitled to the nonconventional source fuel credits for the majority of the landfills due to insufficient substantiation of LFG production and sales, and because they lacked the requisite rights in the facilities during the relevant periods. The court also upheld the accuracy-related penalties under I. R. C. § 6662.

Reasoning

The court analyzed the statutory requirements for the nonconventional source fuel credit, including the definitions of "qualified fuel," "facility for producing qualified fuels," and "placed in service. " It determined that untreated landfill gas qualifies as fuel under § 45K, but the Trusts failed to establish that they had operational facilities capable of producing or selling LFG during the relevant periods. The court rejected the Trusts' substantiation methods, including site visit logs, mathematical models, and equipment ratings, finding them unreliable. The court also found that the Trusts did not have the requisite legal rights in the facilities to claim the credits, especially after certain landfills were affected by RTC's bankruptcy proceedings. The Trusts' failure to keep adequate records and substantiate their claims led to the imposition of accuracy-related penalties.

Disposition

The court sustained the Commissioner's determinations in the FPAAs, denying the Trusts' claims for nonconventional source fuel credits and upholding the accuracy-related penalties.

Significance/Impact

This case clarifies the requirements for claiming nonconventional source fuel credits under I. R. C. § 45K, emphasizing the need for taxpayers to substantiate both the production and sale of qualified fuels and to have the requisite legal rights in the facilities. It also underscores the importance of maintaining adequate records to avoid penalties for negligence or substantial understatement of income tax. The decision may impact future cases involving similar tax credit schemes and the interpretation of "qualified fuel" and "facility for producing qualified fuels. "

© 2025 SCOTUSreports.com. All rights reserved.