UNITED STATES TAX COURT

Modern Computer Games, Inc. v. Commissioner

58 T.C.M. (CCH) 23 (1989) · No. 1866-89 · Decided September 5, 1989

SUMMARY

The United States Tax Court considered whether Carl D. Rader was authorized to file a petition for readjustment on behalf of Modern Computer Games, Inc., an S corporation, during the 90-day period following issuance of a final S corporation administrative adjustment. The court held that Rader was the proper party to file the petition because he was eligible to be designated as the tax matters person and had been specifically authorized by the corporation to act in that capacity, and it denied the Commissioner's motion to dismiss.

CASE DETAILS

COURT	United States Tax Court
WRITING FOR THE COURT	Couvillion, Special Trial Judge
JURISDICTION	USA
DECIDED	September 5, 1989
DOCKET	1866-89
DISPOSITION	writ_denied
PROCEDURAL POSTURE	The Commissioner moved to dismiss the S corporation's petition for lack of jurisdiction, arguing that Carl D. Rader was not the proper party to file the petition during the initial 90-day period under Internal Revenue Code section 6226(a)(1).
STANDARD OF REVIEW	The Court considered the jurisdictional motion based on the pleadings and supporting affidavit, determining whether Rader was authorized to file the petition under the statutory partnership procedures applicable to S corporations.
PRECEDENTIAL VALUE	Unpublished Tax Court memorandum opinion; limited precedential value.
PARTIES	Modern Computer Games, Inc., Carl D. Rader, Tax Matters Person v. Commissioner of Internal Revenue

TOPICS

s corporation tax · tax court procedure · tax · civil procedure

PRACTICE AREAS

tax · tax court procedure · partnership tax · s corporation tax · civil procedure

QUESTIONS PRESENTED

1. Whether Carl D. Rader was authorized to file a petition on behalf of Modern Computer Games, Inc. during the 90-day period provided by Internal Revenue Code section 6226(a)(1).
2. Whether the absence of an express regulatory designation of a tax matters person required dismissal of the petition for lack of jurisdiction.

HOLDINGS

1. Carl D. Rader was the proper party to file the petition on behalf of Modern Computer Games, Inc. because he was eligible to be designated as the tax matters person and had been specifically authorized by the corporation to act in that capacity before filing the petition.
2. The lack of an express designation of Rader or another shareholder as tax matters person under the Commissioner's regulations did not require dismissal where Rader was otherwise eligible and had been specifically authorized by the corporation to file the petition.

KEY QUOTATIONS

> *"The Court finds that Rader was the proper party to file the petition in this case."* (491)

> *"Rader was the proper party for filing the petition during the 90-day period under section 6226(a)(1). Respondent's motion to dismiss will be denied."* (492)

FACTUAL BACKGROUND

Modern Computer Games, Inc. was an Arizona S corporation whose board of directors included Carl D. Rader and three other directors. Before the notice of final S corporation administrative adjustment was issued, the board appointed Rader as the corporation's representative for dealings with the Commissioner concerning the 1983 return. Rader filed and signed the Tax Court petition 88 days after the notice was mailed, although no shareholder had been expressly designated as the tax matters person under the Commissioner's regulations.

PROCEDURAL HISTORY

The Commissioner issued a notice of final S corporation administrative adjustment for Modern Computer Games, Inc.'s 1983 tax year on October 31, 1988. Carl D. Rader filed a petition for readjustment on January 27, 1989, within 90 days, after the corporation's board had authorized him to act as its representative. The Tax Court denied the Commissioner's motion to dismiss.

DISPOSITION

writ_denied

CASES CITED

- Barbados #6 Ltd. v. Commissioner, 85 T.C. 900, 904-905 (1985)
- Computer Programs Lambda v. Commissioner, 90 T.C. 1124, 1127 (1988)
- Chomp Associates, Melvin E. Pearl, Tax Matters Partner v. Commissioner, 91 T.C. 1069, 1078-1079 (1988)