UNITED STATES TAX COURT

Dick v. Commissioner

47 T.C.M. 809 (1984) · No. 12436-82 · Decided January 3, 1984

SUMMARY

The United States Tax Court held that it lacked jurisdiction over the petitioner's 1978 tax year because the Commissioner determined an overpayment rather than a deficiency. For 1979 and 1980, the court rejected the petitioner's attempt to offset taxable income with amounts he claimed he should have received from the Social Security Administration, but allowed specified itemized and legal-expense deductions. The court also sustained additions to tax for negligence or intentional disregard of rules and regulations under section 6653(a).

CASE DETAILS

COURT	United States Tax Court
WRITING FOR THE COURT	Tannenwald
JURISDICTION	USA
DECIDED	January 3, 1984
DOCKET	12436-82
DISPOSITION	other
PROCEDURAL POSTURE	Petitioner challenged federal income-tax deficiencies and additions to tax for 1979 and 1980 and sought tax treatment related to 1978. The Tax Court determined that it lacked jurisdiction over the 1978 year, resolved the deduction issues, and sustained the additions to tax, with the final decision to be entered under Tax Court Rule 155.
STANDARD OF REVIEW	Petitioner bore the burden of proof under Tax Court Rule 142(a).
PRECEDENTIAL VALUE	Unpublished Tax Court memorandum decision; generally nonprecedential.
PARTIES	Ronald Stewart Dick v. Commissioner of Internal Revenue

TOPICS

income tax · tax deductions · tax penalties · tax court procedure

PRACTICE AREAS

federal income taxation | tax procedure | tax deductions | tax penalties

QUESTIONS PRESENTED

1. Whether the Tax Court had jurisdiction over petitioner's 1978 tax year when the Commissioner determined an overpayment rather than a deficiency.
2. Whether petitioner could exclude or offset disability benefits and other income by deducting amounts equal to salary he believed should have been paid by the Social Security Administration.
3. What portion of petitioner's professional, court-related, and legal expenses was deductible for 1979 and 1980.
4. Whether petitioner was liable for additions to tax under Internal Revenue Code section 6653(a) for negligence or intentional disregard of rules and regulations.

HOLDINGS

1. The Tax Court lacked jurisdiction over petitioner's 1978 return because the Commissioner determined an overpayment rather than a deficiency for that year.
2. As a cash-basis taxpayer, petitioner could not report income he had not actually or constructively received and then offset that income with a corresponding business-expense deduction.
3. Petitioner was entitled to deductions for qualifying legal expenses incurred to regain regular employment or recover taxes, but he failed to prove the full amount claimed; the court allowed $4,000 for 1979 and $5,000 for 1980, including related costs.
4. Petitioner was liable for the additions to tax under section 6653(a) for 1979 and 1980.

KEY QUOTATIONS

> *"This Court has jurisdiction only for a taxable year in which a deficiency has been determined."* (LEXIS *671)

> *"As a cash basis taxpayer, petitioner was clearly in error in reporting income which he did not actually or constructively receive."* (LEXIS *672)

> *"He has presented no evidence whatsoever on this point."* (LEXIS *675)

FACTUAL BACKGROUND

Ronald Stewart Dick had been involuntarily retired from the Social Security Administration after being diagnosed as paranoid and maintained that he remained employed and was owed salary and back pay. He reported as income salary he believed he should have received, treated disability benefits as partial salary payments, and claimed deductions equal to the reported income. He also incurred legal fees and court-related expenses in litigation concerning reinstatement, back pay, and tax matters, but did not adequately establish what portions were deductible.

PROCEDURAL HISTORY

The Commissioner determined deficiencies of $15,644.60 for 1979 and $17,236.12 for 1980, together with additions to tax under section 6653(a), and determined an overpayment for 1978. Dick petitioned the United States Tax Court. The court held that it lacked jurisdiction over 1978, allowed specified itemized and legal-expense deductions for 1979 and 1980, rejected the remaining claimed deductions, and sustained the negligence additions.

DISPOSITION

other

CASES CITED

- Dick v. United States, USTC par. 9166