Mason v. United States

1957 U.S. Dist. LEXIS 4641 (D. Haw. 1957)

Pretrial Order Nature of the Case

WIIG, District Judge:

This is an action by plaintiffs to recover taxes prepaid in 1955 for the taxable year ending December 31, 1955, and for which, claim for refund was made by plaintiffs on April 16, 1956. The action is brought against HENRY ROBINSON, as District Director of Internal Revenue, and against the UNITED STATES OF AMERICA, pursuant to the provisions of *28 USC Section 1346*.

Theories of the Parties

The plaintiffs filed their joint income tax return, Form 1040, for the calendar year 1955, and claimed net medical deductions in the amount of $ 3,761.86, representing the cost of construction of a swimming pool, which cost was disallowed as a deduction by the District Director of Internal Revenue.

The plaintiffs claim that the cost should have been allowed as a medical deduction under *Section 213 of the Internal Revenue Code* [*2] *of 1954* because the particular swimming pool in question was installed for the purpose of treatment and improvement of the structure and function of the person of plaintiff JEAN S. MASON.

Defendants claim that the cost of installation of a swimming pool is a capital expenditure, for which a deduction is prohibited by *Section 263(a)(1), Internal Revenue Code of 1954*, inasmuch as the swimming pool increases the value of the property on which it is installed.

Admitted Facts

The following facts have been agreed upon by all parties and require no proof:

1. Plaintiffs are husband and wife, citizens of the United States of America, and were at all times mentioned herein residing in the Territory of Hawaii.

2. Defendant HENRY ROBINSON is and was at all times mentioned herein District Director of Internal Revenue for the Territory of Hawaii and he resides in the Territory of Hawaii.

3. Plaintiffs duly filed their joint income tax return fot the taxable year ending December 31, 1955 on April 16, 1956 (April 15, 1956 being a Sunday) on U. S. Individual Income Tax Return Form 1040. Plaintiffs on said Form 1040 claimed a refund in the amount of $ 660.90 from taxes [*3] withheld in 1955, no part of which claim for refund has been paid to plaintiffs by defendants, except that plaintiffs have received a check for $ 151.62 from the United States, which check they have not cashed.

4. On June 29, 1956, on a Report of Individual Income Tax Audit Changes, Form 1902-B, the examining auditor, L. L. Kamba, allowed $ 151.62 as a net over-assessment but denied the balance of plaintiffs' claim of $ 509.28.

5. Plaintiffs expended the sum of $ 3,852.42 for the construction of a specially designed swimming pool at their residence, constituting a permanent fixture on their land. Said swimming pool covers an area of thirty feet by fifteen feet, and its depth ranges from four to six feet. It incorporates a ramp, which is designed to facilitate entry into the pool from a wheel chair.

6. Plaintiff JEAN S. MASON suffered an attack of paralytic poliomyelitis prior to the installation of said swimming pool.

7. That the pool was installed by plaintiffs on advice of attending physicians in order to provide hydrotherapeutic treatment for plaintiff JEAN S. MASON.

Ultimate Facts Which Will Be Disputed

1. Whether the cost of installation of the swimming pool constituted [*4] an amount paid for the purpose of treatment or of affecting any structure or function of the person of plaintiff JEAN S. MASON.

2. Whether the amount paid out for the swimming pool was an amount paid out for a permanent improvement or betterment made to increase the value of plaintiffs' property.

Point of Law to Be Passed upon by the Court

Whether *Section 263(a)(1)* prevents the allowance of a medical deduction for amounts paid out as the cost of the swimming pool installed on the taxpayers' land.

Verdict

We, the Jury, duly empanelled and sworn in the above entitled cause, do hereby find for the Plaintiffs.

DATED: Honolulu, T. H., this 30th day of September, 1957.