1 T.C. 9 (1942)

When the Commissioner seeks to assess a tax deficiency outside the general three-year statute of limitations based on the taxpayer omitting more than 25% of gross income, the Commissioner bears the burden of proving the omission.

Summary

The Commissioner of Internal Revenue assessed tax deficiencies against C.A. Reis for 1935 and 1936, mailing the deficiency notice more than three years after Reis filed his returns. The Commissioner argued that a five-year statute of limitations applied because Reis allegedly omitted more than 25% of his gross income. The Tax Court held that the Commissioner, as the party asserting the exception to the general three-year statute of limitations, had the burden of proving that Reis omitted the requisite amount of gross income. Because the Commissioner failed to provide evidence of the gross income reported on Reis's returns, the assessment was barred by the statute of limitations.

Facts

C.A. Reis filed income tax returns for 1935 and 1936 on or before the respective deadlines.

The Commissioner mailed a notice of deficiency to Reis on February 7, 1941, more than three years after the returns were filed.

The Commissioner determined deficiencies based on the basis of certain property sold during the tax years.

Neither party introduced Reis's actual tax returns into evidence, so the amount of gross income reported was not in the record.

Procedural History

The Commissioner determined deficiencies in Reis's income taxes for 1935 and 1936.

Reis petitioned the Tax Court for a redetermination of the deficiencies, arguing the statute of limitations had expired.

The Commissioner filed an amended answer seeking to increase the deficiencies.

Issue(s)

Whether the assessment of tax deficiencies against the petitioner is barred by the statute of limitations.

Holding

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No, because the Commissioner failed to meet his burden of proving that the five-year statute of limitations applied, the general three-year statute of limitations bars the assessment.

Court's Reasoning

The court recognized that the general rule under Section 275(a) of the Revenue Act of 1936 requires assessment within three years after the return is filed. Section 275(c) provides an exception, extending the assessment period to five years if the taxpayer omits more than 25% of gross income. The court emphasized that Section 275(c) is an exception to the general rule, stating, "We thus recognize that section 275(c) is not an independent section setting up a statute of limitations different from, and unconnected with, the limitation set up in section 275(a), but that section 275(c) was merely 'meant to limit' section 275(a), and that it 'extends the statutory period for assessment.'"

The court relied on established precedent that the party relying on an exception to a statute of limitations bears the burden of proving the facts that establish the exception. Because the Commissioner was arguing that the five-year statute of limitations applied, he had the burden of proving that Reis omitted more than 25% of his gross income. Since the Commissioner failed to introduce evidence of the gross income reported on Reis's returns, he failed to meet his burden of proof. The court stated, "The deficiency notice is a shield, not a sword. It is a defense where the petitioner has the onus of proof, not a weapon where the respondent has the burden."

Practical Implications

This case clarifies that when the IRS seeks to extend the statute of limitations for assessing tax deficiencies based on a substantial omission of gross income, the IRS bears the burden of proving the omission. Tax attorneys representing taxpayers in similar situations should emphasize that the IRS must present evidence of the taxpayer's reported gross income to invoke the five-year statute of limitations. This case prevents the IRS from relying solely on its deficiency notice to shift the burden of proof to the taxpayer on the statute of limitations issue. Later cases cite Reis for the proposition that the Commissioner bears the burden of proving facts to establish an exception to the statute of limitations.

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