C.A.T. Fish & Coal Co. v. Commissioner, 26 T.C. 305 (1956)

For purposes of determining the timeliness of a tax assessment waiver (Form 872), an agreement is not “executed” until it is both signed by the taxpayer and the Commissioner and delivered to the Commissioner.

Summary

The case concerns the timeliness of a taxpayer’s claim for a tax refund. The central issue is whether Form 872, an agreement extending the statute of limitations for tax assessment, was “executed” by both the taxpayer and the Commissioner within the required timeframe to allow a refund. The court determined that the agreement was not “executed” until the Commissioner signed the form, which occurred after the deadline, thus barring a portion of the refund claim. The court rejected the argument that the form was effective when mailed by the taxpayer or that the deadline should be extended because it fell on a Sunday.

Facts

The IRS proposed a tax deficiency for C.A.T. Fish & Coal Co. for the fiscal year ending September 30, 1943. The company’s counsel requested an extension to file a protest on December 10, 1946. On December 11, 1946, the IRS agent sent Form 872 to the company’s counsel, which extended the statute of limitations to June 30, 1948, provided it was signed and returned within 10 days. The company signed the form on December 13 or 14, 1946, and mailed it to the IRS. The IRS agent signed it on December 16, 1946. A statutory notice of deficiency was issued on July 14, 1947. The company paid a deficiency. The company later sought a refund, and the question arose whether a portion of the tax paid was refundable, which hinged on the validity of the Form 872 extension.

Procedural History

Following the notice of deficiency, C.A.T. Fish & Coal Co. filed a petition with the Tax Court, which determined the company owed a deficiency. The company later paid the deficiency. The company then filed suit in Tax Court seeking a refund, which was disputed by the Commissioner due to the statute of limitations. The Tax Court considered the issue of whether Form 872 was executed within the relevant time frame.

Issue(s)

1. Whether Form 872 was “executed” by both the Commissioner and the taxpayer when the Commissioner mailed it to the taxpayer, but prior to the Commissioner’s signature?

2. Whether Form 872 was “executed” when it was signed and mailed by the

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taxpayer?

3. Whether Form 872 was “executed” when the Commissioner signed it, even if the date the form was signed fell on a Sunday?

Holding

1. No, because the Commissioner had not yet signed the form, the form was not yet an “executed” agreement.

2. No, because the agreement was not considered executed until it had been signed by both parties.

3. No, because, even if the relevant deadline fell on a Sunday, the form was not signed by the Commissioner until the following Monday, when the statute of limitations had run, thus invalidating the waiver.

Court's Reasoning

The court relied on the definition of “execution” to determine the validity of the Form 872 agreement. The court cited McCarthy Co. v. Commissioner, 80 F.2d 618 (9th Cir. 1935) for the principle that “execution” includes “delivery.” The court reasoned that the agreement wasn’t considered executed until the IRS agent signed the form, signifying the Commissioner’s consent. Because the Commissioner signed the form on December 16, 1946, which was outside of the prescribed period, the agreement was deemed untimely. The court also rejected the argument that the deadline should be extended because it fell on a Sunday, citing previous cases where the court declined to apply such an extension in the context of tax filing deadlines, especially when the IRS was not open on Saturday or Sundays. The court noted that Congress, in the 1954 Code, provided for an extension of time when the last day fell on a weekend, but that provision was not retroactive and did not apply to this case.

"We hold and find as a fact that the agreement (Form 872) was not ‘executed’ until December 16, 1946, which would be 3 years and 1 day from the time the return was filed."

Practical Implications

This case highlights the importance of strict adherence to procedural requirements for tax matters. It underscores that for a waiver of the statute of limitations to be valid, all necessary steps, including signatures and delivery, must be completed within the statutory timeframe. This case also informs how to calculate filing deadlines when the last day falls on a weekend or holiday, which can affect the validity of claims. Practitioners must ensure that the agreement is executed and delivered to the IRS within the statutory period. The fact that the IRS agent had the authority to sign the document is not sufficient to make the agreement valid until

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the agent actually signed. Taxpayers must also ensure they receive confirmation that the IRS has received the executed agreement. This case serves as a reminder that the date of execution is critically important for determining whether the statute of limitations has been effectively waived. Later courts will likely apply this standard to other government contracts requiring signature and delivery.

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