Sanzogno v. Commissioner, 60 T. C. 947 (1973)

A departing alien's Form 1040C constitutes a valid tax return for the purpose of starting the statute of limitations on assessment.

Summary

Nino Sanzogno, an Italian citizen, filed a Form 1040C upon leaving the U. S. after a brief stint as a conductor for the Lyric Opera of Chicago. The IRS later issued a deficiency notice for his 1966 tax year, claiming he did not file a return. The Tax Court held that the Form 1040C was a valid return under sections 6011 and 6501 of the Internal Revenue Code, thus starting the statute of limitations. Since the IRS's notice came more than three years after filing, the assessment was barred by the expired statute of limitations.

Facts

Nino Sanzogno, an Italian citizen and resident, entered the U. S. on September 26, 1966, and departed on November 5, 1966, after performing as a conductor for the Lyric Opera of Chicago. He was paid $17,200, with $5,160 withheld for taxes. On November 7, 1966, he filed a U. S. Departing Alien Income Tax Return (Form 1040C) with the IRS in Manhattan, reporting his income and claiming deductions. The district director terminated his 1966 tax year as of November 6, 1966, and certified his compliance with tax laws. On November 19, 1969, the Commissioner mailed a deficiency notice for 1966, asserting that Sanzogno had not filed a return and disallowing all deductions.

Procedural History

Sanzogno filed a petition in the U. S. Tax Court challenging the deficiency notices for 1965 and 1966. The court had previously ruled in his favor for 1965 (60 T. C. 321 (1973)), holding that a Form 1040C started the statute of limitations. The same issue was severed for 1966 and decided similarly in this supplemental opinion.

Issue(s)

1. Whether the Form 1040C filed by Sanzogno constitutes a valid tax return under sections 6011 and 6501 of the Internal Revenue Code, thereby starting the statute of limitations on assessment for the taxable year 1966.

Holding

1. Yes, because the Form 1040C filed by Sanzogno on November 7, 1966, was a valid return under sections 6011 and 6501, starting the three-year statute of limitations. The IRS's deficiency notice, mailed on November 19, 1969, was thus barred as it was issued after the statute had expired.

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Court’s Reasoning

The court applied its previous ruling in Sanzogno’s 1965 case, reaffirming that a Form 1040C meets the requirements of a valid return under sections 6011 and 6501. The court noted that no new cases had altered this interpretation since the prior opinion. The court observed that the Form 1040C was examined by the IRS, as evidenced by the disallowance of some deductions, further supporting its status as a valid return. The court emphasized that the IRS’s termination of Sanzogno’s tax year and certification of compliance reinforced the validity of the Form 1040C. The court concluded that the statute of limitations had expired before the deficiency notice was mailed, barring the assessment.

Practical Implications

This decision clarifies that a Form 1040C filed by a departing alien can start the statute of limitations, impacting how the IRS must handle assessments against such taxpayers. Legal practitioners should ensure clients file Form 1040C before departure to protect against future assessments. Businesses employing foreign workers should be aware of the implications for withholding and refund processes. The ruling may influence IRS procedures for departing aliens and has been applied in subsequent cases involving similar issues, reinforcing the importance of timely filing of Form 1040C.

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