Phelps v. Commissioner, 62 T. C. 513 (1974)

Memoranda of IRS interviews with taxpayers are discoverable if they constitute substantially verbatim records of the taxpayers' statements.

Summary

In Phelps v. Commissioner, the Tax Court ruled that IRS memoranda of interviews with taxpayers must be disclosed if they accurately reflect the taxpayers' statements. The case involved Howard and Geraldine Phelps, who sought access to IRS memoranda from interviews conducted during an investigation of their tax returns. The IRS objected, arguing the memoranda were not statements under Rule 70(c) of the Tax Court Rules. The court disagreed, finding that the memoranda, prepared with care to ensure accuracy, were substantially verbatim records of the Phelps' statements and thus discoverable. This decision underscores the importance of providing taxpayers access to their own statements to ensure a fair trial.

Facts

Howard and Geraldine Phelps operated a loan business in El Paso, Texas. The IRS initiated an investigation into their joint federal income tax returns for the years 1962 through 1965, suspecting underreported income and possible criminal fraud. IRS agents interviewed the Phelpses on 10 occasions between September 21, 1967, and August 6, 1969. The agents took notes during these interviews and later prepared memoranda based on these notes. The Phelpses sought production of these memoranda, which the IRS resisted, claiming they were not "statements" under Rule 70(c).

Procedural History

The Phelpses filed a petition in the United States Tax Court seeking an order to compel the IRS to produce the interview memoranda. The IRS submitted the memoranda for in camera inspection but objected to their production, arguing they were not discoverable under Rule 70(c). The Tax Court, after reviewing the memoranda and hearing testimony from the IRS agents, ruled in favor of the Phelpses, ordering the production of the memoranda.

Issue(s)

1. Whether the IRS memoranda of interviews with the Phelpses are "statements" under Rule 70(c) of the Tax Court Rules of Practice and Procedure, thus subject to discovery.

Holding

1. Yes, because the memoranda are substantially verbatim records of the Phelpses' oral statements made during the interviews, as defined by Rule 70(c).

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Court’s Reasoning

The court applied Rule 70(c), which allows a party to obtain copies of their own statements if they lack access to them. The definition of a “statement” under this rule was derived from the Jencks Act and Federal Rule of Civil Procedure 26(b)(3), which includes a substantially verbatim recital of an oral statement. The court found that the IRS agents took careful notes and prepared memoranda that accurately reflected the Phelpses’ statements, without relying on memory or including personal interpretations. The court cited cases like Palermo v. United States and United States v. McKeever to support its conclusion that the memoranda were discoverable. The court emphasized that providing the Phelpses with their own statements was essential for a fair trial, especially since they were not represented by counsel during the interviews.

Practical Implications

This decision impacts how similar cases involving IRS investigations and taxpayer interviews should be handled. Taxpayers now have a stronger basis to request access to IRS interview memoranda, especially when those memoranda accurately record their statements. This ruling may encourage more transparency in IRS investigations and affect how IRS agents document interviews. Practically, it means taxpayers can better prepare for trial by reviewing their own statements, potentially reducing inconsistencies and promoting fairness. Subsequent cases have cited Phelps to support the principle that taxpayers should have access to their own statements in IRS proceedings.

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