Pollen v. Commissioner, 63 T. C. 675 (1975)

The Tax Court lacks jurisdiction over a case filed after the appointment of a receiver in a related federal court action.

Summary

In Pollen v. Commissioner, the Tax Court dismissed a petition for lack of jurisdiction under IRC section 6871(b), which prohibits Tax Court jurisdiction if a receiver has been appointed in a related federal court case. The IRS had made jeopardy assessments against the Pollens and a receiver was appointed by the District Court. Despite Bobbie Pollen's arguments regarding her personal circumstances and the status of the District Court proceedings, the Tax Court held that it had no jurisdiction because the petition was filed after the receiver's appointment.

Facts

On April 13, 1972, the IRS made jeopardy assessments against Bobbie and William Pollen for the years 1965-1967. On May 2, 1972, the U. S. filed an action in the District Court of New Jersey to enforce its lien. A receiver was appointed on May 12, 1972, and qualified on May 25, 1972. On June 9, 1972, the IRS sent a statutory notice of deficiency to the Pollens. Bobbie Pollen filed a petition in the Tax Court on July 25, 1972, seeking a redetermination of the deficiency.

Procedural History

The IRS moved to dismiss the Tax Court case for lack of jurisdiction. The Tax Court, after directing briefs, heard the motion and issued its decision.

Issue(s)

1. Whether the Tax Court has jurisdiction over a petition filed after the appointment of a receiver in a related federal court action.

Holding

1. No, because IRC section 6871(b) precludes Tax Court jurisdiction when a petition is filed after the appointment of a receiver in a related federal court action.

Court's Reasoning

The Tax Court applied IRC section 6871(b), which states that the Tax Court does not have jurisdiction if a receiver has been appointed in a related federal court action before the petition is filed. The court emphasized that Bobbie Pollen's personal circumstances, such as her divorce from William Pollen and his incarceration for tax evasion, were irrelevant to the jurisdictional issue. The court distinguished the cases cited by Bobbie Pollen, noting that in Leon I. Ross, the same jurisdictional issue led

© 2025 SCOTUSreports.com. All rights reserved.

to dismissal, and in Conlee Construction Co. and Fotochrome, Inc. , the factual situations were different, with the latter involving concurrent jurisdiction due to the timing of the bankruptcy filing. The court concluded, “That court has jurisdiction, and we do not have jurisdiction because the petition filed here was filed after the receiver was appointed. “

Practical Implications

This decision clarifies that taxpayers must file their Tax Court petitions before a receiver is appointed in a related federal court action to preserve Tax Court jurisdiction. Practitioners should advise clients to act quickly upon receiving a notice of deficiency if there is a possibility of a receiver being appointed. The ruling reinforces the importance of understanding the interplay between different federal courts and the IRS’s enforcement actions. Subsequent cases, such as Flora v. United States, have continued to uphold the jurisdictional limits set by IRC section 6871(b).

© 2025 SCOTUSreports.com. All rights reserved.