S-K Liquidating Co. (Formerly Skagit Corporation and Subsidiary), Petitioner v. Commissioner of Internal Revenue, Respondent, 64 T. C. 713 (1975)

A taxpayer's liability for withholding taxes on income paid to nonresident aliens does not preclude the IRS from asserting a deficiency for the taxpayer's own corporate income tax for the same period.

Summary

S-K Liquidating Co. challenged the IRS's ability to issue a second notice of deficiency for its corporate income tax for the fiscal year ending October 31, 1969, after a stipulated decision on its withholding tax liability for calendar years 1968 and 1969. The Tax Court held that the IRS was not barred under I. R. C. § 6212(c) or res judicata from asserting the corporate income tax deficiency, as the two taxes were based on different returns, taxable periods, and income sources. This decision clarifies that withholding tax and corporate income tax are separate liabilities, allowing the IRS to pursue each independently.

Facts

S-K Liquidating Co. received a notice of deficiency from the IRS on December 13, 1973, for its corporate income tax for the fiscal year ending October 31, 1969, alleging improper sale of shares to an affiliated company. Previously, on April 7, 1972, the IRS had issued a notice of deficiency for S-K's failure to withhold taxes on payments to nonresident aliens for calendar years 1968 and 1969. S-K settled this case, and a stipulated decision was entered on March 15, 1973.

Procedural History

The IRS issued the first notice of deficiency on April 7, 1972, for withholding tax deficiencies for 1968 and 1969. S-K filed a petition in the Tax Court, and the case was settled with a stipulated decision entered on March 15, 1973. Subsequently, the IRS issued a second notice of deficiency on December 13, 1973, for S-K's corporate income tax for the fiscal year ending October 31, 1969. S-K moved for judgment on the pleadings, arguing the IRS was barred from asserting the second deficiency.

Issue(s)

1. Whether the IRS is precluded under I. R. C. § 6212(c) from issuing a second notice of deficiency for S-K's corporate income tax for the fiscal year ending October 31, 1969, after a stipulated decision on its withholding tax liability for calendar years 1968 and 1969.
2. Whether the stipulated decision on S-K's withholding tax liability is res judicata and bars the IRS from asserting a deficiency for S-K's corporate income tax for the fiscal year ending October 31, 1969.

Holding

1. No, because the corporate income tax and withholding tax liabilities are based on different returns, taxable periods, and income sources, and thus do not fall within the prohibition of I. R. C. § 6212(c).
2. No, because the taxes and taxable periods are different, and the income taxed was earned by different taxpayers, so the stipulated decision on withholding tax is not res judicata for the corporate income tax deficiency.

Court's Reasoning

The Tax Court distinguished between the corporate income tax and withholding tax liabilities, noting they arise from different returns, taxable periods, and income sources. The court applied I. R. C. § 6212(c), which prohibits additional deficiency notices for the same taxable year, but found it inapplicable here due to the distinct nature of the taxes. The court also cited Edward Michael, 22 B. T. A. 639 (1931), to support its conclusion that separate liabilities based on different theories and facts do not preclude multiple deficiency notices. For res judicata, the court followed Commissioner v. Sunnen, 333 U. S. 591 (1948), stating that each tax year is a separate cause of action, and the different taxable periods and income sources here prevented the application of res judicata.

Practical Implications

This decision reinforces that withholding taxes and corporate income taxes are separate liabilities, allowing the IRS to pursue each independently. Practitioners should be aware that a taxpayer's liability for withholding taxes does not bar the IRS from asserting deficiencies for other taxes, even if the taxable periods overlap. Businesses must be prepared to address each tax liability separately, as settling one type of tax dispute does not preclude further action by the IRS on other tax matters. This case may influence how taxpayers manage their withholding responsibilities and corporate income tax filings, ensuring compliance with both to avoid multiple deficiency notices.