Weimerskirch v. Commissioner, 67 T. C. 672 (1977)

In tax deficiency cases, the taxpayer bears the burden of proof to rebut the Commissioner's determination, even when the determination is based on confidential informer information.

Summary

In Weimerskirch v. Commissioner, the Tax Court upheld the IRS's determination of a tax deficiency based on information from confidential informers alleging the taxpayer's heroin sales. The court refused to shift the burden of proof to the IRS, maintaining that the taxpayer must overcome the presumption of correctness of the IRS's determination. The taxpayer's failure to provide evidence rebutting the IRS's calculations led to the court's decision in favor of the Commissioner, emphasizing the taxpayer's responsibility to substantiate their income and the limitations on accessing confidential informer information.

Facts

Johnny Weimerskirch was assessed a tax deficiency by the IRS, which relied on information from two confidential informers and law enforcement agencies indicating that Weimerskirch sold heroin in 1972. The IRS calculated his unreported income based on these informers' statements, leading to a deficiency determination. Weimerskirch challenged this determination, seeking to shift the burden of proof and access the informers' identities and related files. He did not provide alternative evidence of his income.

Procedural History

The IRS issued a statutory notice of deficiency to Weimerskirch, who then petitioned the United States Tax Court. The court conducted an in camera inspection of the informers' statements and the revenue agent's file, ultimately denying Weimerskirch's motions to shift the burden of proof and access confidential information. The case concluded with the Tax Court upholding the IRS's deficiency determination.

Issue(s)

1. Whether the IRS's determination of unreported income from heroin sales was arbitrary and unreasonable.
2. Whether Weimerskirch was entitled to the identities of the confidential informers.
3. Whether Weimerskirch was entitled to review the revenue agent's confidential file.
4. Whether Weimerskirch's late filing of his tax return was due to reasonable cause.
5. Whether Weimerskirch was subject to self-employment tax on his alleged heroin sales.

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Holding

1. No, because the IRS's determination was supported by sufficient information from informers and law enforcement agencies.
2. No, because the public interest in protecting informer anonymity outweighed Weimerskirch's interest in their identities.
3. No, because the court's in camera inspection found no helpful information and upheld the informer's privilege.
4. No, because Weimerskirch provided no evidence of reasonable cause for late filing.
5. Yes, because Weimerskirch failed to rebut the IRS's determination of self-employment income from heroin sales.

Court's Reasoning

The court applied the presumption of correctness to the IRS's determination, requiring Weimerskirch to rebut it with evidence. It reviewed the informers' statements in camera and found them sufficient to support the IRS's calculation, despite their hearsay nature. The court balanced the public interest in protecting informers against Weimerskirch's defense needs, concluding that the informers' identities were not essential to his case. The court also exercised discretion under Federal Rule of Evidence 612, refusing to produce the revenue agent's file due to the informer's privilege and lack of relevance. Weimerskirch's failure to provide alternative income evidence or a reasonable cause for late filing led the court to uphold the deficiency and penalties.

Practical Implications

This decision reinforces the burden on taxpayers to substantiate their income against IRS deficiency determinations, even when based on confidential informer information. It limits access to such information, emphasizing the protection of informer anonymity. Practitioners should advise clients to maintain thorough records of income and expenditures to challenge IRS calculations effectively. The ruling also affects how similar cases involving alleged illegal income are handled, with courts likely to uphold the IRS's determinations absent strong counter-evidence from the taxpayer. Subsequent cases have cited Weimerskirch in affirming the taxpayer's burden of proof in tax disputes involving confidential sources.

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