Johnson v. Commissioner, 68 T. C. 637 (1977)

Letters from IRS agents can constitute written notification of termination of Appellate Division consideration under Form 872-A, triggering the statute of limitations on tax assessments.

Summary

In Johnson v. Commissioner, the U. S. Tax Court ruled that letters sent by an IRS appellate conferee to taxpayers constituted notice of termination of Appellate Division consideration, thus triggering the statute of limitations under Form 872-A agreements. The taxpayers had signed Form 872-A, extending the statute of limitations indefinitely until either party notified the other of termination. The court found that the IRS letters, which stated an impasse had been reached and that statutory notices of deficiency would be issued, were sufficient to constitute such notice. Consequently, statutory notices sent more than 90 days after these letters were barred by the statute of limitations.

Facts

Edward P. Johnson and the Estate of Helen T. Johnson, along with the Estate of Walter P. McFarland and Bertha L. McFarland, were involved in a business venture audited by the IRS. The IRS and the taxpayers extended the statute of limitations multiple times, culminating in the execution of Form 872-A agreements, which allowed for an indefinite extension until terminated by written notification of the termination of Appellate Division consideration or by the taxpayer's election to terminate. After prolonged negotiations, IRS Appellate Conferee W. A. Johnston sent letters to the McFarlands on January 2, 1973, and to the Johnsons on March 6, 1973, indicating that no satisfactory agreement had been reached and that statutory notices of deficiency would be issued. The IRS issued these statutory notices on July 25, 1973, more than 90 days after the letters.

Procedural History

The taxpayers filed timely petitions with the U. S. Tax Court after receiving the statutory notices of deficiency. They moved for summary judgment, arguing that the IRS letters constituted notice of termination of Appellate Division consideration, thereby triggering the statute of limitations under Form 872-A. The IRS opposed the motions, claiming the letters did not constitute such notice. The Tax Court granted the taxpayers' motions for summary judgment.

Issue(s)

1. Whether letters sent by the IRS Appellate Conferee to the taxpayers constituted written notification of termination of Appellate Division consideration under Form 872-A agreements.

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Holding

1. Yes, because the letters' language and context indicated that Appellate Division consideration had ceased, triggering the 90-day statute of limitations period.

Court's Reasoning

The Tax Court held that the IRS letters constituted notice of termination of Appellate Division consideration under Form 872-A agreements. The court emphasized the plain language of the letters, which used past tense to indicate that consideration had concluded and stated that statutory notices would be issued. The court rejected the IRS's arguments that the letters did not use specific terminology or were not on a form letter, noting that the agreement required only "written notification. " The court also found that the IRS agent had actual authority to issue such notices. The decision was influenced by policy considerations favoring clear and timely notification to taxpayers, ensuring the statute of limitations serves its purpose of finality.

Practical Implications

This decision impacts how IRS communications are analyzed in relation to statute of limitations agreements. Practitioners should be aware that informal IRS communications, if they convey finality and cessation of consideration, may trigger the statute of limitations. This case underscores the importance of clear and unambiguous language in IRS notifications and the need for the IRS to adhere strictly to agreed-upon terms in Form 872-A agreements. Businesses and taxpayers involved in prolonged audits should monitor IRS correspondence closely to ensure timely action in response to potential termination notices. Subsequent cases, such as *Schmidt v. Commissioner*, have applied this ruling, emphasizing the need for the IRS to issue timely notices following termination of consideration.

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