***Hollie v. Commissioner, 73 T. C. 1198 (1980)***

Statutory periods of limitation for tax refunds apply even after a procedurally defective termination assessment.

**Summary**

Willie Lee Hollie sought a refund for overpayments collected by the IRS following a termination assessment, which exceeded his agreed tax liability for 1973. The IRS argued the statutory period for refund had expired. The Tax Court held that the statutory periods of limitation under IRC section 6512(b)(2) barred the refund, as Hollie did not file a timely claim. Despite procedural errors by the IRS in notifying Hollie of the deficiency, these did not excuse compliance with the limitation periods. The decision underscores the strict application of statutory time limits for tax refunds, even in cases of termination assessments.

**Facts**

On November 16, 1973, the IRS made a termination assessment against Willie Lee Hollie for the period January 1 to November 12, 1973, and demanded $132,365. Hollie did not file returns for the terminated period or the full year 1973. On June 11, 1974, the IRS collected $84,930. 26 from funds seized by the New York State Joint Task Force. Hollie's attorney, Gerald Stahl, later protested a proposed deficiency of $135,569. 63 in a 30-day letter dated June 11, 1975, but did not reference the collected funds or request a refund. The parties agreed Hollie owed $66,805. 13 for 1973, but the IRS refused to refund the excess collected due to expired statutory periods of limitation.

**Procedural History**

The IRS issued a notice of deficiency on September 30, 1976, and Hollie filed a petition with the Tax Court on December 20, 1976. The court considered whether Hollie was entitled to a refund for amounts collected exceeding his tax liability for 1973, given the statutory periods of limitation on refunds.

**Issue(s)**

1. Whether the IRS must refund Hollie the portion of funds collected as a result of the termination assessment that exceeds his agreed tax liability for 1973, despite the expiration of the statutory periods of limitation.
2. Whether the IRS's failure to send a notice of deficiency within 60 days of the termination assessment, as required by IRC section 6861(b), excuses compliance with the statutory periods of limitation on refunds.
3. Whether IRC section 6861(f) renders the statutory periods of limitation inapplicable where a refund is sought of an amount collected pursuant to a termination assessment.
4. Whether Hollie's protest to the IRS's 30-day letter or any other document filed

© 2025 SCOTUSreports.com. All rights reserved. 

with, or statement made to, the IRS constituted a timely claim for refund.

## Holding

1. No, because the statutory periods of limitation under IRC section 6512(b)(2) had expired, and no timely claim for refund was filed.
2. No, because the IRS's procedural error did not affect the applicability of the statutory periods of limitation.
3. No, because IRC section 6861(f) does not excuse compliance with the statutory periods of limitation.
4. No, because Hollie's protest and other documents did not adequately notify the IRS of a refund claim within the statutory period.

## Court's Reasoning

The Tax Court applied the statutory rules under IRC section 6512(b)(2), which require a refund claim to be filed within two years of payment. The court found that Hollie did not file a formal or informal claim for refund within this period. The court also rejected Hollie's argument that the IRS's failure to send a notice of deficiency within 60 days of the termination assessment excused compliance with the limitation periods, citing prior cases where similar procedural defects did not waive statutory limitations. The court interpreted IRC section 6861(f) as requiring compliance with the general refund limitation periods in section 6402. Furthermore, the court determined that Hollie's protest and other communications did not constitute a claim for refund, as they did not explicitly request a refund or reference the collected funds. The court emphasized that statutory periods of limitation reflect a congressional policy to cut off refund rights after a certain time, even in cases of involuntary overpayment due to termination assessments.

## Practical Implications

This decision reinforces the strict application of statutory periods of limitation for tax refunds, particularly in the context of termination assessments. Taxpayers must be diligent in filing refund claims within the prescribed time frames, as procedural errors by the IRS do not excuse compliance with these periods. Practitioners should advise clients to file formal refund claims promptly after any payment, especially following termination assessments, to preserve their rights. The decision also highlights the importance of clear communication in refund requests, as informal claims must explicitly notify the IRS of the refund sought. Subsequent cases, such as *Laing v. United States*, have clarified the procedural requirements for termination assessments but have not altered the strict application of refund limitation periods.

© 2025 SCOTUSreports.com. All rights reserved. 