***McClamma v. Commissioner, 76 T. C. 754 (1981)***

The automatic stay in bankruptcy proceedings prohibits a debtor from filing a petition in Tax Court, but does not affect the jurisdiction over a non-bankrupt co-petitioner.

**Summary**

In McClamma v. Commissioner, the U. S. Tax Court addressed the impact of the automatic stay under the Bankruptcy Code on its jurisdiction over tax deficiency cases. John McClamma, who filed for bankruptcy, was barred from filing a petition in Tax Court due to the automatic stay, resulting in the court lacking jurisdiction over his case. Conversely, the court retained jurisdiction over his non-bankrupt wife, Catherine McClamma, allowing her to contest the tax deficiencies independently. The case clarifies that the 90-day period to file a Tax Court petition is suspended during bankruptcy and extends 60 days after the stay is lifted, emphasizing the separate treatment of co-petitioners in tax disputes involving bankruptcy.

**Facts**

John and Catherine McClamma received notices of deficiency from the IRS for their 1977 federal income taxes. John filed for bankruptcy under Chapter 7 on March 3, 1980, shortly after receiving the notice. Despite the bankruptcy filing, the McClammas filed a joint petition in Tax Court on April 18, 1980, within the 90-day period. The Tax Court proceedings were stayed due to John’s bankruptcy, and he was discharged on September 19, 1980, without filing a new petition in Tax Court within the allowed time frame after the stay was lifted.

**Procedural History**

The IRS issued notices of deficiency on February 15, 1980. John filed for bankruptcy on March 3, 1980. The McClammas filed a joint petition in Tax Court on April 18, 1980, which was stayed on July 14, 1980, due to John’s bankruptcy. John was discharged from bankruptcy on September 19, 1980. The IRS moved to dismiss the petition as to John for lack of jurisdiction, which the Tax Court granted on May 12, 1981.

**Issue(s)**

1. Whether the automatic stay in bankruptcy prohibits a debtor from filing a petition in Tax Court?
2. Whether the Tax Court retains jurisdiction over a non-bankrupt co-petitioner when one petitioner is in bankruptcy?

**Holding**

1. Yes, because the automatic stay under 11 U. S. C. § 362(a)(8) prohibits a debtor

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from commencing or continuing proceedings in the Tax Court during bankruptcy.
2. Yes, because the filing of a bankruptcy petition by one co-petitioner does not affect the Tax Court's jurisdiction over the non-bankrupt co-petitioner.

**Court's Reasoning**

The court reasoned that the automatic stay under the Bankruptcy Code prevented John McClamma from filing a petition in Tax Court, rendering his initial filing invalid. The court cited the legislative history, which explicitly stated that a debtor is stayed from filing in Tax Court if a bankruptcy petition is filed within the 90-day period for Tax Court filing. The court also noted that the time for filing a petition in Tax Court is suspended during the bankruptcy stay and extends 60 days after the stay is lifted. For Catherine McClamma, who did not file for bankruptcy, the court held that her petition was validly filed and the court retained jurisdiction over her case, citing precedent that the bankruptcy of one joint petitioner does not affect the rights of the other.

**Practical Implications**

This decision has significant implications for tax practitioners dealing with clients in bankruptcy. It clarifies that the automatic stay prevents a debtor from filing in Tax Court but does not affect the rights of a non-bankrupt co-petitioner. Practitioners must advise clients to file separate petitions if one spouse is in bankruptcy to ensure the non-bankrupt spouse can contest tax deficiencies. The ruling also underscores the need to monitor the timing of bankruptcy discharges and the subsequent 60-day window for filing in Tax Court. Later cases have reinforced this principle, emphasizing the importance of clear communication and strategic filing in tax disputes involving bankruptcy.

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