Tallal v. Commissioner, 77 T. C. 1291 (1981)

A spouse's timely signed consent extending the statute of limitations for assessment of income tax on a joint return is valid for that spouse, even if the other spouse does not sign.

Summary

In Tallal v. Commissioner, the U. S. Tax Court addressed whether a consent to extend the statute of limitations signed by only one spouse on a joint return was valid. Joseph and Pamela Tallal, who filed a joint return for 1976 and later divorced, were assessed a deficiency. Joseph signed a consent extending the statute of limitations, but Pamela did not. The court held that Joseph's consent was valid for him alone, allowing the IRS to assess a deficiency against him, even though the statute had expired for Pamela. This ruling clarifies that each spouse is a separate taxpayer with the authority to independently extend the statute of limitations.

Facts

Joseph J. Tallal, Jr. , and Pamela J. Tallal filed a joint Federal income tax return for 1976. They divorced in November 1977, with the decree stating Joseph was liable for taxes on income before January 1, 1977. During an audit, Joseph was asked to sign a Form 872-R to extend the statute of limitations for 1976. He agreed to sign only if Pamela also signed, but ultimately signed without her signature. The IRS issued a notice of deficiency in July 1980, within the extended period for Joseph but beyond the original period for Pamela.

Procedural History

The Tallals filed a petition with the U. S. Tax Court in October 1980, arguing that the assessment was barred by the statute of limitations. The case was heard on a motion for summary judgment in 1981. The court ruled that Joseph's consent was valid for him, allowing the IRS to assess a deficiency against him.

Issue(s)

1. Whether a consent to extend the statute of limitations signed by only one spouse on a joint return is valid for that spouse alone.

Holding

1. Yes, because each spouse is considered a separate taxpayer with the authority to independently extend the statute of limitations on assessment and collection of taxes.

Court's Reasoning

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The court reasoned that a consent to extend the statute of limitations is a unilateral waiver, not a contract requiring mutual assent. The court cited *United States v. Gayne* to support that no consideration is needed for such a waiver. The court emphasized that the statute does not require both spouses' signatures for a valid extension when a joint return is filed. It referenced *Dolan v. Commissioner*, where a similar issue was addressed, concluding that the instructions on Form 872-R requiring both signatures were superfluous. The court also noted that the facts were similar to *Magaziner v. Commissioner*, where the court upheld an assessment against a spouse who signed the waiver. The court rejected Joseph's argument that his consent was conditioned on Pamela's signature, as no such condition was stated on the form.

Practical Implications

This decision clarifies that when spouses file a joint return, each can independently extend the statute of limitations for their own tax liability. Practitioners should advise clients that signing a consent form without the other spouse's signature remains valid for the signing spouse. This ruling impacts how attorneys handle tax audits and extensions, especially in cases of divorce or separation. It also affects how the IRS processes extensions and assessments, reinforcing the IRS's ability to pursue one spouse when the other is barred by the statute of limitations. Subsequent cases, such as *Boulez v. Commissioner*, have further clarified the IRS's authority in similar situations.

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