Derksen v. Commissioner, 84 T. C. 355, 1985 U. S. Tax Ct. LEXIS 113, 84 T. C. No. 25 (1985)

A taxpayer may file an amended petition without leave of the court before a responsive pleading is served, and a motion to dismiss does not constitute a responsive pleading.

Summary

In Derksen v. Commissioner, Roy Derksen challenged tax deficiencies determined by the IRS, claiming no obligation to file returns or pay taxes. The U. S. Tax Court granted Derksen's motion to file an amended petition without leave, as no responsive pleading had been filed. However, both the original and amended petitions were dismissed for failing to state a claim upon which relief could be granted, as they contained frivolous tax protest arguments. The court also imposed damages on Derksen under IRC section 6673 for maintaining frivolous proceedings, highlighting the court's intolerance for such claims.

Facts

Roy C. Derksen received a notice of deficiency from the IRS for the tax years 1980, 1981, and 1982, alleging unreported income from self-employment and various additions to tax. Derksen filed a voluminous and largely incomprehensible petition, asserting that he was not subject to federal taxes, lacked jurisdiction, and was immune from taxation. After the Commissioner moved to dismiss for failure to state a claim, Derksen sought leave to file an amended petition, reiterating similar arguments about his non-obligation to file returns or pay taxes.

Procedural History

The case was assigned to Special Trial Judge Helen A. Buckley. The Commissioner filed a motion to dismiss the original petition for failure to state a claim. Derksen then filed a motion for leave to file an amended petition. The court granted the motion to file the amended petition, but subsequently dismissed both the original and amended petitions for failing to state a claim upon which relief could be granted. Additionally, the court awarded damages to the United States under IRC section 6673.

Issue(s)

1. Whether a taxpayer may file an amended petition without leave of the court when no responsive pleading has been served.
2. Whether a motion to dismiss constitutes a responsive pleading under the Tax Court Rules of Practice and Procedure.
3. Whether the taxpayer's petition and amended petition stated a claim upon which relief could be granted.

© 2025 SCOTUSreports.com. All rights reserved.

Holding

1. Yes, because under Rule 41(a) of the Tax Court Rules of Practice and Procedure, a party may amend their pleading once as a matter of course before a responsive pleading is served.
2. No, because under Rule 30, a motion to dismiss is not considered a responsive pleading.
3. No, because the taxpayer's petitions contained frivolous tax protest arguments that have been repeatedly rejected by courts, and thus failed to state a claim upon which relief could be granted.

Court's Reasoning

The court emphasized that Rule 41(a) allows a party to amend their pleading once without leave before a responsive pleading is served. The court clarified that a motion to dismiss, as per Rule 30, is not a responsive pleading, thus allowing Derksen to file an amended petition without seeking leave. The court analyzed the amended petition and found it, like the original, lacking in justiciable issues of law or fact, reiterating frivolous tax protest arguments previously dismissed by courts. The court cited cases like McCoy v. Commissioner to support its stance on summarily dismissing such frivolous claims. The court also invoked IRC section 6673 to award damages to the United States, noting the frivolous nature of Derksen's proceedings.

Practical Implications

This decision clarifies that taxpayers can amend their petitions in the Tax Court without seeking leave before a responsive pleading is filed, reinforcing the liberal attitude towards amendments. However, it also serves as a warning to taxpayers and their attorneys that frivolous tax protest arguments will be summarily dismissed and may result in sanctions under IRC section 6673. Practitioners should advise clients against pursuing such claims, as they waste judicial resources and may lead to penalties. This case reinforces the need for clear, justiciable claims in tax litigation and highlights the court's commitment to swift and efficient handling of meritless tax protests.

© 2025 SCOTUSreports.com. All rights reserved.