***Marshall v. Commissioner, 86 T. C. 128 (1986)***

Unanswered requests for admissions can establish tax fraud and support summary judgment if they conclusively prove the elements of fraud.

**Summary**

In Marshall v. Commissioner, the Tax Court granted summary judgment to the IRS due to the taxpayers' failure to respond to requests for admissions, which were deemed admitted under Tax Court Rule 90(c). These admissions established that the taxpayers underreported income from their service station and knowingly maintained false records with intent to evade taxes for 1974 and 1975. The court found these admissions sufficient to prove tax fraud under section 6653(b), highlighting the importance of responding to discovery requests and the potential consequences of deemed admissions in tax litigation.

**Facts**

Spurgeon and Thelma Marshall operated a Gulf service station and a tire service in Houston, Texas. The IRS determined tax deficiencies and additions for fraud for tax years 1974 and 1975. The Marshalls filed a petition disputing these assessments. The IRS served requests for admissions, which included admissions that the Marshalls underreported income, maintained false records, and did so with intent to evade taxes. The Marshalls failed to respond to these requests, resulting in the admissions being deemed admitted under Tax Court Rule 90(c).

**Procedural History**

The case was filed in the U. S. Tax Court. After multiple continuances due to the Marshalls' counsel's inability to locate his clients, the IRS moved for summary judgment based on the Marshalls' failure to respond to requests for admissions. The Tax Court granted the motion, sustaining the deficiencies and fraud penalties.

**Issue(s)**

1. Whether the Tax Court should grant summary judgment on the income tax deficiencies for 1974 and 1975 based on the deemed admissions?
2. Whether the Tax Court should grant summary judgment on the additions to tax for fraud under section 6653(b) based on the deemed admissions?

**Holding**

1. Yes, because the deemed admissions established the facts necessary to support the IRS's deficiency determinations as a matter of law.
2. Yes, because the deemed admissions established the elements of fraud with intent to evade taxes under section 6653(b).

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## Court’s Reasoning

The court relied on Tax Court Rule 121, which allows for summary judgment when there is no genuine issue of material fact. The Marshalls’ failure to respond to the requests for admissions resulted in the facts being deemed admitted under Rule 90(c). The court found these admissions sufficient to establish the tax deficiencies and the fraud penalties, citing Doncaster v. Commissioner, where similar deemed admissions were used to prove fraud. The court emphasized that the IRS met its burden of proof through these admissions, which established intentional wrongdoing designed to evade taxes. The court also noted that the deemed admissions were almost identical to those relied upon in Doncaster, supporting the application of that precedent.

## Practical Implications

This decision underscores the importance of responding to requests for admissions in tax litigation. Failure to respond can result in critical facts being deemed admitted, potentially leading to summary judgment against the non-responding party. For tax practitioners, this case highlights the need to diligently manage discovery requests and maintain communication with clients. The ruling also reinforces the IRS’s ability to use deemed admissions to prove tax fraud, which can have severe consequences for taxpayers. Subsequent cases have followed this precedent, emphasizing the strategic importance of discovery in tax disputes.

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