***Village of Brown Deer v. Commissioner, 86 T. C. 975 (1986)***

The U. S. Tax Court lacks jurisdiction to issue declaratory judgments on the tax-exempt status of already issued bonds under Section 7478.

**Summary**

In Village of Brown Deer v. Commissioner, the Tax Court addressed whether it had jurisdiction to issue a declaratory judgment on the tax-exempt status of municipal bonds issued in 1979. The Village sought an extension of the temporary period for bond proceeds expenditure and challenged the IRS's ruling. The Court held that it lacked jurisdiction under Section 7478, which applies only to prospective obligations not yet issued. This ruling clarified the scope of the Tax Court's authority regarding municipal bond disputes and emphasized the importance of timing in seeking judicial review of tax-exempt status determinations.

**Facts**

The Village of Brown Deer issued $4. 5 million in General Obligation Storm Sewer Bonds on April 1, 1979, to finance a storm sewer project. The Village expected to expend the bond proceeds within three years but was unable to do so due to high construction bids. On March 15, 1982, the Village requested an extension of the temporary period from the IRS, which was denied on September 28, 1984. Subsequently, the Village paid $306,735. 76 in interest earned on the bond proceeds to the IRS. On December 3, 1984, the Village filed a petition for declaratory judgment under Section 7478 to challenge the IRS's ruling and the bond's tax-exempt status.

**Procedural History**

The Village of Brown Deer issued bonds in 1979 and sought an extension of the temporary period in 1982. After the IRS denied the extension in 1984, the Village paid the required interest and filed a petition for declaratory judgment in the U. S. Tax Court on December 3, 1984. The Commissioner moved to dismiss for lack of jurisdiction, leading to the Tax Court's decision on May 19, 1986.

**Issue(s)**

1. Whether the Village's bonds are "prospective" obligations within the meaning of Section 7478?
2. Whether the Village's request for an extension of the temporary period constituted a request for determination under Section 7478?
3. Whether the Village's submission of a nonarbitrage certificate constituted a request for determination under Section 7478?

**Holding**

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1. No, because the bonds were issued in 1979, before the petition was filed, and thus are not “prospective” obligations under Section 7478.
2. No, because the request for an extension of the temporary period does not constitute a request for determination under Section 7478, which applies only to prospective obligations.
3. No, because the submission of a nonarbitrage certificate does not equate to a request for determination under Section 7478.

**Court’s Reasoning**

The Tax Court reasoned that Section 7478 authorizes declaratory judgments only for prospective obligations, defined as those not yet issued at the time of filing the petition. The Court relied on the everyday meaning of “prospective” and the legislative history of Section 7478, which aimed to address disputes over proposed bond issues. The Village’s bonds, issued in 1979, did not meet this criterion. Furthermore, the Court found that the Village’s request for an extension of the temporary period and the submission of a nonarbitrage certificate did not constitute requests for determination under Section 7478. The Court emphasized that these actions did not seek a ruling on the tax-exempt status of the bonds under Section 103(a). The decision was supported by the General Explanation of the Revenue Act of 1978, which clarified that “prospective” obligations refer to those not yet issued.

**Practical Implications**

This decision limits the U. S. Tax Court’s jurisdiction under Section 7478 to prospective bond obligations, affecting how issuers of municipal bonds challenge IRS determinations on tax-exempt status. Issuers must seek judicial review before issuing bonds to fall within the court’s jurisdiction. The ruling underscores the importance of timing in legal challenges to IRS rulings on bond issues and may influence issuers to seek determinations from the IRS before proceeding with bond issuance. This case has been cited in subsequent decisions to clarify the scope of Section 7478, reinforcing the distinction between prospective and already issued obligations in tax law disputes.

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