Millsap v. Commissioner, 93 T. C. 711 (1989)

A taxpayer may contest the Commissioner's filing status determination in deficiency proceedings, even if the Commissioner has filed a substitute return under section 6020(b).

Summary

In Millsap v. Commissioner, the Tax Court held that a taxpayer's failure to timely file a return does not allow the Commissioner to preclude the taxpayer from electing joint filing status in a deficiency proceeding. The IRS had filed substitute returns for the taxpayer, Millsap, electing a married filing separately status. Millsap later attempted to file joint returns with his wife, which the IRS contested based on the substitute returns. The court ruled that the Commissioner's substitute return under section 6020(b) does not override a taxpayer's right to contest filing status in deficiency proceedings, allowing Millsap to elect joint filing status.

Facts

Petitioner Millsap failed to file timely federal income tax returns for 1979-1982. The IRS conducted an examination and filed substitute returns for these years, electing a "married filing separately" status. Millsap and his wife later filed joint returns for these years. The IRS issued a notice of deficiency using married filing separately rates, which Millsap contested by filing a petition with the Tax Court.

Procedural History

The IRS determined deficiencies and additions to tax for Millsap for the years 1979-1982. After Millsap filed a petition with the Tax Court, the parties settled all issues except the filing status. The Tax Court reviewed the case and issued its opinion on the remaining issue of whether Millsap could elect joint filing status after the IRS had filed substitute returns.

Issue(s)

1. Whether a substitute return filed by the Commissioner under section 6020(b) precludes a taxpayer from electing joint filing status in a deficiency proceeding?

Holding

1. No, because the court held that a taxpayer retains the right to contest the filing status determination in deficiency proceedings, even if the Commissioner has filed a substitute return under section 6020(b).

Court's Reasoning

The court reasoned that the plain language of section 6013(b) refers to a return filed

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by an “individual,” implying taxpayers have the initial right to elect their filing status. The court overruled prior decisions that allowed the Commissioner to finalize a taxpayer’s filing status via substitute returns, stating that such an approach would circumvent deficiency procedures. The court emphasized that treating filing status differently from other adjustments in a deficiency would be arbitrary. They cited historical context and the purpose of deficiency procedures to support their decision, ensuring taxpayers can contest all elements of a deficiency, including filing status.

Practical Implications

This decision reaffirms taxpayers’ rights in deficiency proceedings, allowing them to contest the IRS’s filing status determinations even after the IRS has filed substitute returns. Legal practitioners should advise clients to file returns timely to avoid potential disputes over filing status. For cases where substitute returns are filed, attorneys must be prepared to argue the taxpayer’s right to elect a different filing status in court. This ruling may influence IRS procedures in handling substitute returns and could lead to more contested deficiency proceedings regarding filing status. Subsequent cases may reference Millsap when addressing similar issues concerning the interplay between sections 6013 and 6020(b).

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