Bolton v. Commissioner, 92 T. C. 656 (1989)

A court may extend the time for filing an answer when statute of limitations allegations contribute to delay, even if the respondent did not act with due diligence.

Summary

In Bolton v. Commissioner, the U. S. Tax Court addressed the timeliness of the Commissioner's answer to a petition that included a statute of limitations defense. The petitioners filed their petition 22 days after receiving a notice of deficiency, alleging the statute of limitations had expired. The Commissioner, unable to access the administrative file promptly, sought an extension to file an answer. The court found the Commissioner did not exercise due diligence in obtaining the file but granted the extension due to the petitioners' failure to make a reasonable inquiry into their statute of limitations claim before filing, potentially contributing to the delay. This decision emphasizes the importance of due diligence by both parties in tax litigation and the court's discretion in managing procedural timelines.

Facts

The Commissioner issued a notice of deficiency to the Boltons on May 26, 1988, for the 1984 tax year. The Boltons filed a timely petition on June 17, 1988, claiming the statute of limitations had expired under section 6501 of the Internal Revenue Code. The Commissioner's answer was due by August 19, 1988. The Commissioner's counsel, unable to obtain the administrative file, filed a motion for extension on August 8, 1988. The file was received on August 16, 1988, but the answer was not lodged until October 7, 1988.

Procedural History

The case originated with the Commissioner issuing a notice of deficiency on May 26, 1988. The Boltons filed a petition on June 17, 1988, alleging the statute of limitations had expired. The Commissioner's answer was due by August 19, 1988. On August 8, 1988, the Commissioner filed a motion to extend the time for filing the answer due to the unavailability of the administrative file. The Tax Court granted the extension on March 28, 1989.

Issue(s)

1. Whether the Commissioner exercised reasonable diligence in ensuring the answer was filed within the 60-day period provided by Rule 36(a), Tax Court Rules of Practice and Procedure?
2. Whether the Boltons' counsel complied with Rule 33(b), Tax Court Rules of Practice and Procedure, requiring reasonable inquiry into the facts before filing the petition?
3. Whether the Boltons' statute of limitations allegations contributed to the Commissioner's delay in filing the answer?

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Holding

1. No, because the Commissioner failed to make diligent efforts to obtain the administrative file in time to file the answer by the due date.
2. No, because the Boltons' counsel did not make a reasonable inquiry into the statute of limitations claim before filing the petition.
3. Yes, because the Boltons' statute of limitations allegations may have contributed to the Commissioner's delay in filing the answer, necessitating access to the administrative file.

Court's Reasoning

The court determined that the Commissioner did not act with due diligence in obtaining the administrative file, as evidenced by the lack of follow-up after the initial request and the delay in filing the answer after receiving the file. However, the court also found that the Boltons' counsel violated Rule 33(b) by not making a reasonable inquiry into the statute of limitations claim before filing the petition. The court noted that the petition was filed only 22 days after the notice of deficiency, leaving ample time for such an inquiry. The court cited *Betz v. Commissioner* and *Vermouth v. Commissioner* to support its discretion in granting extensions in the interest of justice. The court's decision to grant the extension was influenced by the potential contribution of the Boltons' unverified allegations to the Commissioner's delay, as per *Versteeg v. Commissioner*.

Practical Implications

This decision underscores the importance of due diligence by both parties in tax litigation. Attorneys representing taxpayers should thoroughly investigate statute of limitations claims before filing a petition, as failure to do so may impact the respondent's ability to file a timely answer. For the Commissioner, the case highlights the need for efficient administrative processes to avoid delays in litigation. The ruling also reaffirms the Tax Court's broad discretion in managing procedural timelines, which can be exercised to prevent undue prejudice to either party. Subsequent cases may reference this decision when addressing similar issues of procedural fairness and the impact of unverified allegations on litigation timelines.

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