Kamholz v. Commissioner, 94 T. C. 11 (1990)

The Tax Court has jurisdiction to enjoin the IRS from collecting taxes during the pendency of a case if the tax is the subject of a timely filed petition.

Summary

In Kamholz v. Commissioner, the Tax Court addressed its jurisdiction to enjoin the IRS from collecting taxes during ongoing litigation. Gordon Kamholz sought to restrain the IRS from collecting assessments for tax years 1983, 1985, and 1987, with cases pending for 1983 and 1984. The Court held it lacked jurisdiction over 1985 and 1987 as no petitions were filed for those years. For 1983, the Court found the IRS failed to prove the assessments were not the subject of pending petitions, thus enjoining collection until the cases were finalized. This case clarified the Tax Court's authority to prevent premature collection actions by the IRS.

Facts

Gordon Kamholz had petitions pending in the Tax Court for tax years 1983 and 1984. In 1988, the IRS sent Kamholz a notice of intention to levy for assessments related to 1983, 1985, and 1987. Kamholz moved to restrain the IRS from collecting these assessments. The IRS had previously issued a second notice of deficiency for 1983, which Kamholz contested, leading to another petition. The IRS argued the 1983 assessment was a computational adjustment due to partnership level changes, but failed to substantiate this claim.

Procedural History

Kamholz timely filed petitions for tax years 1983 and 1984, assigned docket numbers 34798-86 and 27758-87, respectively. In 1988, the IRS sent a second notice of deficiency for 1983, prompting Kamholz to file another petition (docket No. 27763-88). The IRS moved to dismiss part of docket No. 34798-86 due to partnership adjustments, which was granted. Kamholz then moved to restrain the IRS from collecting assessments for 1983, 1985, and 1987, leading to this decision.

Issue(s)

1. Whether the Tax Court has jurisdiction to restrain the IRS from collecting assessments for tax years 1985 and 1987.
2. Whether the burden of proof in restraining IRS collection activities lies with the petitioner or the respondent, and what standard of proof applies.
3. Whether the 1983 assessment the IRS intends to collect is the subject of a timely filed petition before the Tax Court.
4. Whether the Tax Court should enjoin the IRS from collecting the 1983 assessment.

Holding

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1. No, because the Tax Court lacks jurisdiction under section 6213(a) to enjoin collection for years not the subject of timely filed petitions.
2. The burden of proof lies with the respondent once the petitioner makes a plausible and believable showing; the standard is a preponderance of the evidence.
3. No, because the IRS failed to prove by a preponderance of the evidence that the 1983 assessment was not the subject of the pending petitions.
4. Yes, because the IRS's failure to prove the assessment was not subject to pending petitions warranted an injunction under section 6213(a).

Court's Reasoning

The Court reasoned that under section 6213(a), as amended by TAMRA, it has jurisdiction to enjoin IRS collection activities only for years covered by timely filed petitions. For 1985 and 1987, no such petitions existed, thus no jurisdiction. The Court applied the *Williams v. Commissioner* standard for burden of proof, finding Kamholz's motion plausible and believable, shifting the burden to the IRS. The IRS's explanation for the 1983 assessment as a computational adjustment was deemed inadequate and speculative. The Court emphasized the IRS's inability to prove the assessment was unrelated to the pending 1983 cases, thus justifying the injunction to prevent premature collection.

Practical Implications

This decision reinforces the Tax Court's role in protecting taxpayers from premature IRS collection during ongoing litigation. Practitioners should be aware that the IRS bears the burden of proof once a taxpayer makes a plausible case for an injunction. The case also highlights the importance of clear record-keeping and substantiation by the IRS regarding assessments. Subsequent cases have cited *Kamholz* to support the Tax Court's jurisdiction in similar situations, affecting how taxpayers and the IRS approach collection issues during pending litigation.

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