Barnette v. Commissioner, 95 T. C. 341 (1990)

A civil tax penalty does not violate the Double Jeopardy Clause if it is rationally related to the damage caused to the government.

Summary

In Barnette v. Commissioner, the U. S. Tax Court addressed whether civil fraud penalties under Section 6653(b) of the Internal Revenue Code constituted a violation of the Double Jeopardy Clause following a criminal conviction for tax evasion. The petitioners, Larry D. Barnette and Allied Management Corporation, sought detailed information about IRS expenses to argue that the civil penalties were punitive. The court rejected this claim, ruling that the 50% civil fraud penalty was remedial and not disproportionately punitive, thus not triggering double jeopardy concerns. The court granted the Commissioner's motion for a protective order, deeming the requested discovery irrelevant and overly burdensome.

Facts

Larry D. Barnette and Allied Management Corporation were part of a group of related cases before the U. S. Tax Court. Barnette had been convicted of tax evasion for 1978 and 1979 and other non-tax crimes, while Allied Management Corporation was convicted on non-tax matters. Following these convictions, the IRS issued notices of deficiency, including additions to tax under Section 6653(b) for civil fraud. The petitioners sought discovery of IRS expenses related to both the criminal and civil cases, arguing that the civil penalties constituted double jeopardy.

Procedural History

The petitioners filed a formal interrogatory seeking detailed information about IRS expenses. The Commissioner moved for a protective order, asserting that the requested discovery was irrelevant and burdensome. The Tax Court reviewed the motion and the petitioners' double jeopardy argument.

Issue(s)

1. Whether the civil fraud penalty under Section 6653(b) constitutes a violation of the Double Jeopardy Clause when imposed after a criminal conviction for the same conduct.
2. Whether the petitioners were entitled to discovery of IRS expenses related to the criminal and civil cases.

Holding

1. No, because the civil fraud penalty under Section 6653(b) is remedial and rationally related to the damage caused to the government, not punitive.
2. No, because the requested discovery is irrelevant to the issues in the case and

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would be unduly burdensome to the Commissioner.

Court’s Reasoning

The court distinguished this case from *United States v. Halper*, where a fixed civil penalty was deemed punitive and thus violated double jeopardy. Here, the court found that the 50% civil fraud penalty under Section 6653(b) was not a fixed penalty but varied with the actual tax deficiency, ensuring a rational relationship to the government’s damage. The court noted that the penalty could be inadequate to cover the government’s costs, further supporting its remedial nature. The court also referenced *Helvering v. Mitchell*, affirming that civil and criminal sanctions for tax evasion do not inherently trigger double jeopardy. The petitioners failed to show a colorable claim for double jeopardy protection, leading the court to conclude that the requested discovery was irrelevant and overly burdensome.

Practical Implications

This decision clarifies that civil tax penalties under Section 6653(b) do not violate the Double Jeopardy Clause unless they are disproportionately punitive. Practitioners should focus on demonstrating the remedial nature of civil penalties rather than seeking extensive discovery into government expenses. The ruling also underscores the court’s discretion to limit discovery when it is deemed irrelevant or burdensome. Subsequent cases, such as *Lockman v. Commissioner*, have followed this reasoning, while *Starling v. Commissioner* provides a contrasting view where the penalty was deemed punitive. This case informs how courts assess the proportionality of civil penalties and their impact on double jeopardy considerations.

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