Stamos v. Commissioner, 95 T. C. 624 (1990)

Treasury Department orders and IRS regulations delegating authority to issue notices of deficiency are valid even if not published in the Federal Register, as they are internal procedural rules.

Summary

In Stamos v. Commissioner, the Tax Court upheld the validity of notices of deficiency issued by the IRS, rejecting arguments that the notices were invalid due to improper delegation of authority. The petitioners, Frank and Lorna Stamos, challenged the notices on the grounds that the Treasury Department orders and IRS regulations delegating authority to issue them were not published in the Federal Register. The court found that such internal delegations are procedural and do not require publication under the Federal Register Act or the Administrative Procedure Act. Consequently, the Stamoses were liable for the tax deficiencies, and the court imposed penalties for their frivolous arguments and failure to prosecute their case effectively.

Facts

Frank and Lorna Stamos, residents of Lodi, California, did not file federal income tax returns for the years 1981 through 1984. The IRS, pursuant to section 6020(b), prepared substitute returns and issued notices of deficiency to the Stamoses in December 1988, signed by the District Director of the Sacramento, California IRS office. The Stamoses filed petitions in the Tax Court seeking redetermination of the deficiencies. Before trial, they moved to dismiss the case, arguing that the notices were invalid because the Treasury Department orders and IRS regulations delegating authority to issue them were not published in the Federal Register.

Procedural History

The Stamoses filed their petitions in the U. S. Tax Court challenging the notices of deficiency. Before the scheduled trial, they moved to dismiss the case, claiming that the notices were invalid due to improper delegation of authority. The IRS responded with a cross-motion to dismiss for failure to prosecute and a motion for damages under section 6673. The Tax Court heard the motions and proceeded with the trial, ultimately denying the Stamoses' motion to dismiss and finding in favor of the Commissioner.

Issue(s)

1. Whether the notices of deficiency issued to the Stamoses are invalid because the Treasury Department orders and IRS regulations delegating authority to issue them were not published in the Federal Register.
2. Whether the Stamoses failed to properly prosecute their case and whether the IRS is entitled to an award of damages pursuant to section 6673.

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3. Whether the Stamoses are liable for the deficiencies and additions to tax as determined by the IRS.

Holding

1. No, because the notices of deficiency are valid. The court reasoned that Treasury Department orders and IRS regulations are internal procedural rules that do not require publication in the Federal Register to be effective.
2. Yes, because the Stamoses failed to properly prosecute their case. The court awarded damages to the United States under section 6673 due to the frivolous nature of the Stamoses' arguments and their failure to provide evidence at trial.
3. Yes, because the Stamoses failed to present any competent evidence at trial to challenge the deficiencies determined by the IRS.

Court's Reasoning

The court held that Treasury Department orders and IRS regulations delegating authority to issue notices of deficiency are valid even if not published in the Federal Register. These orders and regulations are internal procedural rules that do not affect the rights and obligations of citizens and thus are exempt from the publication requirements of the Federal Register Act and the Administrative Procedure Act. The court emphasized that the delegation of authority to the Commissioner and District Director was proper and that the Stamoses' arguments regarding the lack of publication were unpersuasive. The court also noted that the Stamoses' failure to provide documentation or evidence at trial indicated that their case was primarily for delay, justifying the imposition of damages under section 6673.

Practical Implications

This decision clarifies that internal delegations of authority within the IRS do not require publication in the Federal Register to be effective, reinforcing the agency's ability to enforce tax laws efficiently. Attorneys and legal practitioners should understand that challenging the validity of notices of deficiency based solely on the non-publication of internal delegation orders is unlikely to succeed. The case also serves as a reminder of the potential for penalties under section 6673 for frivolous arguments and failure to prosecute, highlighting the importance of presenting competent evidence in tax disputes. Subsequent cases have upheld this principle, affirming the IRS's authority to issue notices of deficiency based on properly delegated authority.

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