Berry v. Commissioner, 97 T. C. 339 (1991)

A consent agreement extending the assessment period does not revive the expired period for filing a claim for a tax refund when no return has been filed.

Summary

In Berry v. Commissioner, the petitioners, who had not filed a tax return for 1982, sought a refund of overpaid taxes. Despite executing a Form 872-A consent agreement extending the assessment period, the Tax Court ruled that this agreement did not extend the period for filing a refund claim nor allow recovery of the overpayment. The court emphasized that without a filed return, the two-year statute of limitations for filing a refund claim had expired, and the consent agreement did not revive this period. This case highlights the importance of timely filing returns to preserve refund rights and the strict application of statutory limitations on refund claims.

Facts

The petitioners, Jack and Crisa Berry, did not file a federal income tax return for 1982 but had taxes withheld from their wages. In 1985, they executed a Form 872-A consent agreement with the IRS, which extended the period for assessing taxes. On January 4, 1989, the IRS issued deficiency notices for the years 1982 through 1986. The Berrys had not filed a claim for a refund of their 1982 taxes by this date. They later filed a delinquent return on March 30, 1989, after the deficiency notices were sent.

Procedural History

The IRS issued deficiency notices to the Berrys on January 4, 1989, for the tax years 1982 through 1986. The Berrys filed a petition with the U. S. Tax Court contesting these deficiencies and claiming an overpayment for 1982. The Tax Court considered whether the Form 872-A consent agreement affected the Berrys' ability to claim a refund.

Issue(s)

1. Whether the Form 872-A consent agreement extended the period for filing a claim for a refund of the 1982 taxes when no return had been filed.
2. Whether the Berrys were entitled to a refund of their overpaid 1982 taxes.

Holding

1. No, because the Form 872-A consent agreement did not extend the expired two-year period for filing a refund claim under section 6511(a).
2. No, because the Berrys did not file a claim for a refund within the statutory period and no taxes were paid within the relevant time frames under sections 6512(b)(3)

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and 6511(b)(2).

Court’s Reasoning

The Tax Court applied sections 6511(a) and 6512(b)(3) of the Internal Revenue Code, which limit the time for filing refund claims and the amount of any refund allowable. Since no return was filed, the two-year limitation period applied, and the Berrys could not have filed a timely claim for a refund by the date of the deficiency notices. The court found that the Form 872-A consent agreement, executed after the two-year period had expired, did not revive the expired limitation period for filing a refund claim. The court also noted that the consent agreement did not alter the statutory limitations on the amount of any refund, as no taxes were paid within the relevant time frames. The court rejected the Berrys’ reliance on cases involving timely filed returns and consent agreements executed within the statutory period, as those cases were distinguishable on their facts. The court concluded that the Berrys were not entitled to a refund of their overpaid 1982 taxes.

Practical Implications

This decision underscores the importance of timely filing tax returns to preserve the right to claim refunds. Practitioners should advise clients that failure to file a return triggers a two-year statute of limitations for claiming refunds, which cannot be extended by consent agreements. The case also clarifies that consent agreements extending the assessment period do not automatically extend the refund claim period. Taxpayers and practitioners must be aware of these strict limitations and ensure that returns are filed and refund claims are made within the statutory periods. This ruling may impact taxpayers involved in similar situations where they have not filed returns and seek to claim refunds, emphasizing the need for careful compliance with filing deadlines.

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