Jacobson v. Commissioner, 915 F. 2d 832 (2d Cir. 1990)

A surety bond filed in a tax appeal remains in effect until the deficiency is finally determined, even if the case is remanded.

Summary

In Jacobson v. Commissioner, the Second Circuit reversed and remanded a Tax Court decision, prompting the taxpayers to seek the release of a surety bond filed during the appeal. The Tax Court denied this request, ruling that the bond must remain in effect until the deficiency is finally determined, as required by Section 7485 of the Internal Revenue Code. This case clarifies that a surety bond's liability extends beyond the initial appeal period and continues until all proceedings related to the deficiency determination are concluded.

Facts

The Jacobsons appealed a Tax Court decision regarding their 1979 federal income tax liability. They filed a surety bond of $58,888 on April 28, 1989, as required by Section 7485 of the Internal Revenue Code to stay the collection of the tax deficiency during the appeal. The Second Circuit reversed and remanded the case for reconsideration. Following the remand, the Jacobsons moved for the release of the bond, arguing its purpose was fulfilled once the appeal was decided.

Procedural History

The Tax Court initially decided against the Jacobsons in T. C. Memo. 1988-341. They appealed to the Second Circuit, which reversed and remanded the case in Jacobson v. Commissioner, 915 F. 2d 832 (2d Cir. 1990). Upon remand, the Jacobsons filed a motion to release the surety bond, which the Tax Court denied.

Issue(s)

1. Whether the surety bond filed by the Jacobsons to stay the collection of a tax deficiency during their appeal can be released following the Second Circuit's remand and before final determination of the deficiency.

Holding

1. No, because the bond must remain in effect until the deficiency is finally determined as per Section 7485 of the Internal Revenue Code.

Court's Reasoning

The Tax Court emphasized that the bond's purpose, as stated in Section 7485, is to secure payment of the deficiency as finally determined. The court rejected the Jacobsons' argument that the bond's purpose was fulfilled once the appeal was

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decided, noting that the statute and bond terms clearly state it remains effective until final determination. The court distinguished previous cases cited by the Jacobsons, pointing out that Estate of Kahn v. Commissioner discussed the general purpose of the bond, not its statutory condition, and Graefenhain v. Pabst Brewing Co. dealt with a supersedeas bond, not a statutory bond under Section 7485. The court also noted potential risks to the government's ability to collect if the bond were released prematurely. The court found no legislative history indicating a different interpretation of Section 7485.

Practical Implications

This ruling impacts how attorneys handle tax appeals involving surety bonds. It clarifies that such bonds remain in effect until all proceedings related to the deficiency are concluded, not just until the initial appeal is decided. This means taxpayers and their counsel must be prepared to maintain the bond through potentially lengthy remand proceedings. The decision also reinforces the government's position in tax litigation by ensuring continued security for potential deficiencies. Practitioners should advise clients accordingly and consider the bond's implications for their financial planning and litigation strategy. Subsequent cases, such as Huntsberry v. Commissioner, have followed this interpretation, emphasizing the importance of statutory language over general bond purpose statements.

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