***Allen v. Commissioner*, 98 T.C. 535 (1992)**

The Tax Court possesses jurisdiction to determine an overpayment of increased interest under I.R.C. § 6621(c), even when the underlying tax liability arises from partnership-level adjustments and is not a deficiency directly before the court.

Summary

In this Tax Court case, petitioners sought to challenge the assessment of increased interest under I.R.C. § 6621(c), arguing they had overpaid their taxes due to this interest. The IRS moved to dismiss for lack of jurisdiction, citing a prior Tax Court case, *White v. Commissioner*, which held that the Tax Court lacked deficiency jurisdiction over § 6621(c) interest. The Tax Court, in *Allen*, distinguished *White*, holding that while it might lack deficiency jurisdiction, its jurisdiction to determine overpayments under I.R.C. § 6512(b) is broader and encompasses the authority to decide if there was an overpayment of interest, including increased interest under § 6621(c). The court reasoned that for overpayment purposes, interest is treated as tax, and Congress intended the Tax Court to provide a complete disposition of tax cases, including interest overpayment claims.

Facts

Petitioners were limited partners in Barrister Equipment partnership. Partnership-level proceedings under I.R.C. § 6221 et seq. resulted in adjustments to partnership items, which were resolved by settlement. Consequently, the IRS assessed tax and interest related to these partnership items against the petitioners.

The IRS issued a notice of deficiency to petitioners concerning tax years 1980, 1983, 1984, and 1985. This notice solely addressed additions to tax under I.R.C. §§ 6653, 6659, and 6661, stemming from the partnership adjustments.

Petitioners contested these additions to tax and further claimed they had made an overpayment for each year. This alleged overpayment was specifically attributed to their payment of increased interest assessed under I.R.C. § 6621(c), which applies to substantial underpayments due to tax-motivated transactions. Petitioners argued that the § 6621(c) interest assessment was improper because the underlying tax underpayment was not due to a tax-motivated transaction.

Procedural History

The IRS moved to dismiss for lack of jurisdiction and to strike the claim regarding overpayment of § 6621(c) interest, relying on *White v. Commissioner*, 95 T.C. 209 (1990).

The Tax Court initially granted the IRS's motion to dismiss.

Petitioners then filed a motion to reconsider, arguing that *White* was distinguishable

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because it did not involve a claim of overpayment. Petitioners contended that the Tax Court's jurisdiction to determine overpayments extended to interest, including increased interest under § 6621(c), especially when a notice of deficiency for additions to tax was properly before the court.

Issue(s)

1. Whether the Tax Court has jurisdiction to determine if there was an overpayment of increased interest under I.R.C. § 6621(c).

Holding

1. Yes, the Tax Court held that it does have jurisdiction to determine whether there was an overpayment of increased interest under I.R.C. § 6621(c) because its overpayment jurisdiction under I.R.C. § 6512(b) is broader than its deficiency jurisdiction and encompasses such determinations.

Court's Reasoning

The Tax Court distinguished its prior holding in *White v. Commissioner*. In *White*, the court held it lacked deficiency jurisdiction over § 6621(c) interest because interest is generally excluded from the definition of "deficiency" under I.R.C. § 6211 and § 6601(e)(1) for deficiency proceedings.

However, the court in *Allen* emphasized that § 6601(e)(1) states that references to "tax" in Title 26 generally include interest, except in subchapter B of chapter 63, which pertains to deficiency procedures. I.R.C. § 6512(b), granting the Tax Court overpayment jurisdiction, is not within subchapter B. Therefore, the court reasoned, "the literal terms of section 6601(e)(1) provide that interest is to be treated as tax for all other purposes in title 26, including section 6512(b)."

The court cited *Estate of Baumgardner v. Commissioner*, 85 T.C. 445 (1985), which held that the Tax Court has jurisdiction to determine an overpayment of interest as part of its jurisdiction to determine an overpayment of the underlying tax. The court stated, "if Congress granted taxpayers the right of claiming an overpayment with respect to a year over which the Tax Court had properly acquired jurisdiction to redetermine a deficiency, Congress must have intended that the Court be able to determine all of the elements of the overpayment, including interest."

The court also noted the legislative intent behind granting the Tax Court overpayment jurisdiction was to allow for a "complete disposition of the tax case." It reasoned that bifurcating litigation—one forum for tax overpayment and another for interest overpayment—would be inefficient and contrary to Congressional intent. As the notice of deficiency regarding additions to tax was properly before the court, jurisdiction existed to determine if there was an overpayment of tax for the same years, which could include the § 6621(c) interest.

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Practical Implications

Allen v. Commissioner clarifies the scope of Tax Court jurisdiction, particularly in the context of interest overpayments and partnership proceedings. It establishes that taxpayers can challenge the assessment of increased interest under § 6621(c) in Tax Court, even if the underlying tax liability stems from partnership adjustments not directly before the court in a deficiency proceeding.

This decision prevents the need for taxpayers to litigate tax overpayments and interest overpayments in separate forums, promoting judicial efficiency and providing a comprehensive resolution within the Tax Court. It ensures that taxpayers have a judicial avenue to dispute the application of § 6621(c) increased interest, which can be a significant financial burden.

For legal practitioners, *Allen* is crucial for understanding the Tax Court's jurisdictional reach in overpayment cases, especially when dealing with complex tax issues arising from partnerships or S corporations. It highlights the importance of distinguishing between deficiency jurisdiction and overpayment jurisdiction when assessing the Tax Court as a forum for dispute resolution. Later cases would rely on *Allen* to assert Tax Court jurisdiction in similar overpayment scenarios, solidifying its practical impact on tax litigation.

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