T.C. Memo. 1992-98

Filing Form 4868 or Form 2688, applications for extensions to file tax returns, does not constitute filing a tax return for the purpose of determining refund limitations under Internal Revenue Code sections 6511 and 6512.

Summary

The Tax Court held that Forms 4868 and 2688, applications for extensions of time to file a tax return, do not qualify as tax returns for the purpose of statutory limitations on tax refunds. Thomas Bragg filed these extension forms but filed his Form 1040 after the extended deadline and after receiving a notice of deficiency. The court determined that because no valid return was filed before the deficiency notice, the 2-year look-back period for refunds applied, barring Bragg's claim for an overpayment refund. The court reasoned that extension forms lack sufficient data to calculate tax liability and do not purport to be tax returns, failing the established criteria for a valid tax return.

Facts

Petitioner Thomas Bragg did not file his 1986 Form 1040 by the original due date or the extended due date of October 15, 1987. He did file Form 4868 (automatic extension) on April 15, 1987, and Form 2688 (additional extension) on August 15, 1987. On April 12, 1990, the IRS mailed Bragg a notice of deficiency for 1986. Bragg finally filed his Form 1040 on September 19, 1991. Taxes were withheld from Bragg's wages in 1986, and he made an estimated tax payment with Form 4868, totaling more than his ultimately determined tax liability of $1,448. Bragg sought a refund of the overpayment.

Procedural History

The IRS issued a notice of deficiency. Bragg petitioned the Tax Court to determine his 1986 tax liability and claim an overpayment refund. The Tax Court was tasked with deciding if Bragg was entitled to a refund, specifically addressing whether the extension forms constituted tax returns for refund limitation purposes.

Issue(s)

1. Whether Form 4868, Application for Automatic Extension of Time to File U.S. Individual Income Tax Return, constitutes a valid tax return for purposes of triggering the 3-year statute of limitations for claiming a tax refund under sections 6511 and 6512 of the Internal Revenue Code.
2. Whether Form 2688, Application for Additional Extension of Time to File U.S. Individual Income Tax Return, constitutes a valid tax return for the same purposes.

Holding

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1. No, because Form 4868 does not meet the legal requirements of a tax return as it lacks sufficient data to calculate tax liability and does not purport to be a tax return.
2. No, because Form 2688 suffers from the same deficiencies as Form 4868 and also fails to qualify as a valid tax return.

Court's Reasoning

The court relied on established Supreme Court precedent and its own prior rulings, particularly the four-part test from *Beard v. Commissioner*, 82 T.C. 766, 777 (1984), to determine what constitutes a valid tax return. The *Beard* test requires that a document: (1) contain sufficient data to calculate tax liability; (2) purport to be a return; (3) represent an honest and reasonable attempt to satisfy tax law requirements; and (4) be executed under penalties of perjury.

The court found that while Forms 4868 and 2688 were signed under penalties of perjury and represented an attempt to comply with tax law regarding filing extensions, they failed the first two prongs of the *Beard* test. Specifically, these forms do not contain sufficient information to calculate tax liability, lacking details about income, deductions, and exemptions. Furthermore, the forms themselves are explicitly applications for extensions and do not purport to be tax returns. The instructions for Form 4868 clearly state its purpose is to request an extension to file Form 1040, indicating it is not a substitute for the return itself.

Because no valid return was filed before the notice of deficiency, and the late-filed Form 1040 was considered a claim for refund, the court applied the 2-year look-back period under section 6511(b)(2)(B). As the tax payments were made more than two years before the deemed claim date (deficiency notice date), no refund was allowable. The court emphasized that while section 6103 defines "return" broadly for confidentiality purposes, this definition does not apply to the requirements for filing a tax return under section 6011 or for refund limitations under section 6511.

Practical Implications

Bragg v. Commissioner reinforces that taxpayers must file a complete Form 1040 (or equivalent return containing sufficient financial information) to be considered as having filed a tax return for refund purposes. Filing extension forms, even with estimated tax payments, does not protect a taxpayer's ability to claim a full refund if the actual return is filed late, especially after a notice of deficiency. This case highlights the strict application of refund limitation statutes. Taxpayers and practitioners must ensure timely filing of complete returns, not just extension requests, to preserve refund rights. This ruling clarifies that taxpayers cannot rely on extension forms as substitutes for actual tax returns when seeking overpayment refunds, particularly when facing deficiency notices and statutory refund limitations.

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