***Banat v. Commissioner, 109 T. C. 92 (1997)***

The Tax Court has jurisdiction to review denials of interest abatement requests pending with the IRS after the enactment of section 6404(g).

**Summary**

In Banat v. Commissioner, the court addressed whether it had jurisdiction to review the IRS's denial of an interest abatement request under section 6404(g), enacted as part of the Taxpayer Bill of Rights 2 (TBOR 2). Robert Banat had submitted his requests before TBOR 2's enactment but received a denial notice afterward. The court held it had jurisdiction over Robert's case because his requests were still pending when TBOR 2 became law. However, it lacked jurisdiction over Marie Banat's claims as she had not submitted any requests. The decision clarified that section 6404(g) applies to requests pending at the time of enactment, impacting how taxpayers and the IRS handle such requests.

**Facts**

Robert Banat submitted requests for interest abatement under section 6404(e) for tax years 1985-1987 on August 13, 1995. These requests were still pending when the Taxpayer Bill of Rights 2 (TBOR 2) was enacted on July 30, 1996. On November 8, 1996, the IRS issued a notice of disallowance to Robert Banat. Marie Banat did not submit any requests for interest abatement. The Banats filed a petition in the Tax Court on February 5, 1997, seeking review of the IRS's decision.

**Procedural History**

Robert Banat submitted interest abatement requests in 1995. After TBOR 2's enactment, the IRS denied these requests on November 8, 1996. The Banats filed a petition with the Tax Court on February 5, 1997. The Commissioner moved to dismiss for lack of jurisdiction, arguing that Robert's requests predated TBOR 2 and that Marie had not filed any requests. The Tax Court addressed the motion and issued its opinion on August 5, 1997.

**Issue(s)**

1. Whether the Tax Court has jurisdiction under section 6404(g) to review the IRS's denial of interest abatement requests submitted before, but denied after, the enactment of TBOR 2.
2. Whether the Tax Court has jurisdiction over Marie Banat's claims when she did not submit any interest abatement requests.

**Holding**

1. Yes, because the requests were still pending with the IRS when TBOR 2 was enacted, and the denial occurred post-enactment.

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2. No, because Marie Banat did not submit any requests for interest abatement and thus did not receive a notice of final determination.

**Court’s Reasoning**

The court interpreted the effective date of section 6404(g), enacted by TBOR 2, which applies to requests for abatement after July 30, 1996. The court reasoned that denying jurisdiction over requests pending at the time of enactment would be contrary to the intent of TBOR 2 to increase taxpayer protections. The court cited the legislative history of TBOR 2, emphasizing its purpose to enhance taxpayer rights. It distinguished between requests made and denied before the enactment date (over which it lacked jurisdiction) and those still pending at the time of enactment (over which it had jurisdiction). The court also noted that a notice of final determination was issued to Robert Banat, fulfilling the jurisdictional requirement under section 6404(g). However, it lacked jurisdiction over Marie Banat’s claims due to the absence of any request or corresponding notice.

**Practical Implications**

The Banat decision clarifies that the Tax Court can review IRS denials of interest abatement requests that were pending at the time of TBOR 2’s enactment. This ruling ensures that taxpayers with pending requests at the time of enactment are not denied judicial review, aligning with the protective intent of TBOR 2. Practitioners should note that the timing of when a request is made versus when it is denied is crucial for determining jurisdiction. The decision also underscores the importance of ensuring that all relevant parties submit their own requests for interest abatement if they wish to challenge a denial in court. Subsequent cases have followed this precedent, ensuring consistent application of section 6404(g) to pending requests.

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