Bourekis v. Commissioner, 110 T. C. 20 (1998)

The Tax Court lacks jurisdiction to review interest abatement requests unless a formal notice of final determination not to abate interest has been issued.

Summary

In Bourekis v. Commissioner, the taxpayers contested a tax deficiency and sought abatement of interest, claiming the IRS's delay was unreasonable. The IRS issued a notice of deficiency that did not include penalties or a final determination on interest abatement. The Tax Court held it lacked jurisdiction over the interest abatement issue because no formal request for abatement had been made, and the notice of deficiency could not be treated as a final determination on interest. This case clarifies the procedural requirements for challenging interest assessments in the Tax Court, emphasizing the necessity of a formal interest abatement request and a subsequent final determination by the IRS.

Facts

James G. and Katherine Bourekis claimed a loss on their 1981 tax return from an investment in PCS Ltd. Partnership. The IRS disallowed the loss, leading to a deficiency notice in 1996 for $4,472, which included interest but no penalties. The Bourekis paid the tax deficiency but contested the interest, alleging an unreasonable delay by the IRS. They did not formally request interest abatement but claimed they had made informal requests during settlement discussions.

Procedural History

The IRS issued a notice of deficiency in October 1996. The Bourekis filed a timely petition with the Tax Court contesting the deficiency and seeking interest abatement. The IRS moved to dismiss for lack of jurisdiction regarding penalties and interest. The Tax Court granted the motion, ruling it lacked jurisdiction over the interest abatement issue.

Issue(s)

1. Whether the Tax Court has jurisdiction to consider additions to tax or penalties not included in the notice of deficiency?
2. Whether the Tax Court has jurisdiction under section 6404(g) to review the IRS's decision on interest abatement when no formal request for abatement was made and no final determination was issued?

Holding

1. No, because the Tax Court's jurisdiction is limited to redetermining deficiencies and additional amounts determined in the notice of deficiency or asserted by the Commissioner.

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2. No, because the Tax Court's jurisdiction under section 6404(g) requires a formal request for abatement and a subsequent final determination by the IRS, neither of which occurred in this case.

Court's Reasoning

The Tax Court emphasized its limited jurisdiction, stating it could only exercise authority as granted by Congress. For penalties and additions to tax, the Court held it lacked jurisdiction because these were not included in the notice of deficiency. Regarding interest abatement, the Court clarified that jurisdiction under section 6404(g) requires a formal request for abatement and a final determination by the IRS, which the Bourekis did not obtain. The Court rejected the argument that the notice of deficiency could be treated as a final determination on interest abatement, noting that the IRS did not intend for it to serve such a purpose. The Court also dismissed the Bourekis' reliance on a related case involving their brother-in-law, stating that equitable considerations could not expand its jurisdiction beyond statutory limits.

Practical Implications

This decision underscores the importance of following proper procedures when seeking interest abatement. Taxpayers must submit a formal request for abatement using Form 843 and wait for a final determination from the IRS before the Tax Court can review the matter. Practitioners should advise clients to carefully document any delays or errors by the IRS and to formally request abatement if appropriate. This case also reinforces the principle that the Tax Court's jurisdiction is strictly limited by statute, and equitable considerations cannot expand it. Subsequent cases have continued to apply this ruling, requiring formal requests and final determinations for interest abatement disputes to be heard by the Tax Court.

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