Lee v. Commissioner, 113 T. C. 145 (1999)

The mere passage of time in litigation does not justify abatement of interest under section 6404(e) unless it results from a ministerial error by the IRS.

Summary

In Lee v. Commissioner, the U. S. Tax Court held that the Commissioner did not abuse discretion in denying interest abatement under section 6404(e) for a taxpayer's 1980 tax liability. The case involved a tax shelter investment, and the taxpayer sought abatement due to the 11-year delay from the notice of deficiency to settlement. The court found that the delay stemmed from the government's litigation strategy and procedural motions, not from ministerial errors by the IRS. The court also rejected claims related to innocent spouse relief and alleged misinformation, concluding that the IRS's actions were not ministerial and did not warrant interest abatement.

Facts

In 1980, William Grant Lee invested in a tax shelter promoted by William Kilpatrick. Lee and his former wife claimed losses on their 1980 tax return. In 1984, the IRS issued a notice of deficiency disallowing these losses. Lee's case was litigated for over a decade, involving criminal proceedings against the shelter promoters and numerous procedural motions. In 1995, Lee settled with the IRS, and his former wife was granted innocent spouse relief. Lee then sought abatement of interest accrued on his 1980 tax liability, which the IRS denied.

Procedural History

In 1984, the IRS issued a notice of deficiency to Lee. A petition was filed in the U. S. Tax Court, which was assigned to Judge Whitaker in 1985. The case was delayed due to parallel criminal proceedings and procedural motions, including Kelley motions on statute of limitations. The case was eventually calendared for trial in 1995, and Lee settled with the IRS. In 1996, the IRS issued a notice of final determination denying Lee's claim for interest abatement, leading to this appeal.

Issue(s)

1. Whether the 11-year delay in resolving Lee's case constitutes a ministerial error by the IRS warranting interest abatement under section 6404(e)?
2. Whether the IRS's grant of innocent spouse relief to Lee's former wife was a ministerial error?
3. Whether misinformation or lack of information from the IRS regarding Lee's 1980 deficiency constituted ministerial errors?

Holding

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1. No, because the delay resulted from the government's litigation strategy and procedural motions, not from ministerial errors by the IRS.
2. No, because granting innocent spouse relief involved the exercise of judgment and discretion, not a ministerial act.
3. No, because the IRS did not commit ministerial errors in its communications with Lee, and any alleged misinformation was due to Lee's vague inquiries.

Court's Reasoning

The court emphasized that section 6404(e) allows interest abatement only for errors or delays in ministerial acts, not for delays due to litigation strategy or procedural motions. The court cited legislative history and temporary regulations to define "ministerial act" as a nondiscretionary, procedural action. The court found that the 11-year delay was due to the government's choice to pursue criminal proceedings first and the litigation of procedural motions, which required judgment and discretion. The court also rejected Lee's arguments regarding innocent spouse relief and misinformation, as these involved discretionary decisions or were not attributable to IRS errors. The court concluded that the IRS did not abuse its discretion in denying interest abatement.

Practical Implications

This decision clarifies that taxpayers cannot rely on the length of litigation alone to justify interest abatement under section 6404(e). Practitioners should be aware that only delays due to ministerial errors, not strategic litigation decisions or procedural motions, may warrant interest abatement. This case also underscores the importance of clear communication between taxpayers and the IRS, as vague inquiries may lead to misunderstandings that do not constitute ministerial errors. Future cases involving interest abatement will need to demonstrate specific ministerial errors by the IRS, rather than merely citing the duration of litigation.

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