Sego v. Commissioner, 114 T. C. 604 (2000)

A taxpayer's deliberate refusal to accept a statutory notice of deficiency precludes them from challenging the underlying tax liability in a collection due process hearing.

Summary

Steven and Davina Sego received statutory notices of deficiency for tax years 1993-1995, which they either rejected or refused to accept. They later contested the IRS's proposed levy action in a collection due process hearing, attempting to challenge their underlying tax liability. The U. S. Tax Court held that because the Segos had an opportunity to dispute their liability earlier but deliberately refused, they could not challenge it in the collection due process proceeding. The court found no abuse of discretion by the IRS in proceeding with collection, emphasizing that the taxpayers' refusal to engage with the initial notices barred them from later contesting the liability.

Facts

Steven Sego received a statutory notice of deficiency by regular mail on August 13, 1997, which he returned with frivolous language. Davina Sego's notice was sent to their residence but returned unclaimed despite attempted deliveries. Both taxpayers did not file a petition in response to the deficiency notices. After receiving notices of determination concerning collection actions, they sought to challenge their underlying tax liability during the collection due process hearings, claiming the liability was based on fabricated documents and statistics.

Procedural History

The IRS issued statutory notices of deficiency to Steven and Davina Sego on August 13, 1997, for tax years 1993-1995. Neither filed a petition to the Tax Court within the 90-day period. The IRS then sent notices of determination concerning collection actions, which the Segos contested by filing a petition with the U. S. Tax Court. The court reviewed the case to determine if the taxpayers could challenge their underlying tax liability in the collection due process proceeding.

Issue(s)

1. Whether a taxpayer who deliberately refuses to accept a statutory notice of deficiency can challenge the underlying tax liability in a collection due process hearing under section 6330(c)(2)(B)?

Holding

1. No, because section 6330(c)(2)(B) limits challenges to the underlying tax liability in collection due process hearings to taxpayers who did not receive a statutory

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notice of deficiency or did not have an earlier opportunity to dispute such liability. The Segos had an opportunity to contest their tax liability but deliberately refused to do so, thus precluding them from challenging it in the collection due process proceeding.

Court's Reasoning

The court applied section 6330(c)(2)(B) of the Internal Revenue Code, which states that a taxpayer can challenge the underlying tax liability in a collection due process hearing only if they did not receive a statutory notice of deficiency or did not have an earlier opportunity to dispute such tax liability. The court found that both Steven and Davina Sego had received or had the opportunity to receive statutory notices of deficiency. Steven Sego's return of the notice with frivolous language and Davina Sego's refusal to claim the notice were deemed deliberate refusals to engage with the IRS's process. The court cited cases like *Erhard v. Commissioner* and *Patmon & Young Professional Corp. v. Commissioner* to support the principle that deliberate refusal of a statutory notice precludes later challenges to the underlying tax liability. The court also noted that the taxpayers' post-hearing claims did not reflect on the propriety of the IRS's determinations at the time of the hearing.

Practical Implications

This decision clarifies that taxpayers cannot circumvent the tax deficiency process by refusing to accept statutory notices and then attempting to challenge the underlying liability during collection due process hearings. Legal practitioners should advise clients to engage with the IRS's deficiency process if they wish to contest their tax liability. The ruling reinforces the importance of the statutory notice of deficiency as the primary opportunity for taxpayers to challenge their liability before it becomes final. Businesses and individuals should be aware that deliberate refusal to accept IRS communications can limit their future legal options. Subsequent cases, such as *Goza v. Commissioner*, have followed this reasoning, emphasizing the limited scope of collection due process hearings in challenging underlying tax liabilities.

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