Davis v. Commissioner, 115 T. C. 35 (2000)

Form 4340 is sufficient to verify tax assessments for IRS Appeals hearings, which remain informal and do not include the right to subpoena witnesses.

Summary

In Davis v. Commissioner, the IRS issued a notice of intent to levy against Ronald Davis for unpaid taxes from 1991-1993. Davis requested an IRS Appeals hearing, contesting the validity of the assessments and the nature of the hearing. The Tax Court upheld the IRS's use of Form 4340 to verify the assessments, ruling that no abuse of discretion occurred. Additionally, the court clarified that IRS Appeals hearings are informal and do not grant the right to subpoena witnesses, nor must the notice of determination be signed under penalty of perjury. This decision reinforces the procedures and scope of IRS collection due process hearings.

Facts

The IRS sent Ronald Davis a notice of intent to levy on February 3, 1999, for unpaid income taxes for the years 1991, 1992, and 1993. Davis requested an IRS Appeals hearing within 30 days, challenging the validity of the assessments due to lack of a valid summary record of assessment. The Appeals officer verified the assessments using Form 4340 and provided Davis with a copy. Davis's request to subpoena witnesses and documents was denied. Appeals issued a notice of determination stating that the assessments were valid and that Davis did not provide evidence to dispute his liability or suggest alternative collection methods.

Procedural History

Davis timely filed a petition with the U. S. Tax Court for review of the Appeals determination. The IRS moved for judgment on the pleadings. The Tax Court reviewed the case, focusing on whether the Appeals officer abused discretion in verifying the assessments, the nature of the Appeals hearing, and the applicability of the penalty of perjury requirement to the notice of determination.

Issue(s)

1. Whether the Appeals officer abused discretion by relying on Form 4340 to verify the tax assessments.
2. Whether the Appeals hearing provided under section 6330 includes the right to subpoena witnesses.
3. Whether section 6065 requires the notice of determination to be signed under penalty of perjury.

Holding

1. No, because Form 4340 provides presumptive evidence of a valid assessment and

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Davis did not show any irregularity in the assessment process.
2. No, because IRS Appeals hearings are informal and do not include the right to subpoena witnesses.
3. No, because section 6065 applies to documents originated by the taxpayer, not notices issued by the IRS.

Court’s Reasoning

The Tax Court reasoned that Form 4340 is routinely used to prove tax assessments and is presumptive evidence of a valid assessment unless irregularities are shown. The court emphasized that Appeals hearings are informal and historically have not included the right to subpoena witnesses. Congress did not intend to change this when enacting section 6330. Regarding section 6065, the court clarified that this section applies to documents submitted by taxpayers, not IRS notices like the determination letter. The court found no abuse of discretion in the Appeals officer’s actions and upheld the IRS’s procedures.

Practical Implications

This decision affirms the use of Form 4340 as sufficient verification of tax assessments in IRS Appeals hearings, streamlining the process for the IRS. It also clarifies that Appeals hearings remain informal, without the right to subpoena witnesses, which may affect taxpayers’ strategies in contesting IRS actions. The ruling that section 6065 does not apply to IRS notices simplifies the documentation required in these proceedings. Practitioners should note these limitations when advising clients on IRS collection due process hearings and consider alternative methods to challenge assessments or present evidence.

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