McCune v. Commissioner, 115 T. C. 42 (2000)

The statutory 30-day period for filing an appeal of a collection due process (CDP) determination under section 6330(d)(1) is jurisdictional and cannot be extended by a taxpayer's request for reconsideration or by delays in receiving court orders.

Summary

McCune received a notice of intent to levy for unpaid taxes and, after an unsuccessful CDP hearing and a denied request for reconsideration, filed an untimely appeal in the U. S. District Court. After the District Court dismissed for lack of jurisdiction, McCune filed a petition in the Tax Court, also untimely. The Tax Court held that the statutory 30-day period for filing an appeal under section 6330(d)(1) is jurisdictional and cannot be extended by a taxpayer's actions, dismissing McCune's petition for lack of jurisdiction due to untimeliness.

Facts

On January 27, 1999, McCune received a Final Notice of Intent to Levy from the IRS for unpaid federal income taxes for 1992-1994. He requested and was granted a CDP hearing, resulting in a Notice of Determination on July 29, 1999, upholding the proposed levy. McCune's request for reconsideration was denied on September 8, 1999. On October 18, 1999, McCune filed an appeal in the U. S. District Court, which was dismissed on January 26, 2000, for lack of jurisdiction. McCune then filed a petition in the Tax Court on March 6, 2000, seeking review of the July 29, 1999, determination.

Procedural History

McCune filed an appeal in the U. S. District Court for the Northern District of Texas on October 18, 1999, which was dismissed on January 26, 2000, for lack of jurisdiction. Subsequently, McCune filed a petition in the Tax Court on March 6, 2000. The Tax Court considered respondent's motion to dismiss for lack of jurisdiction, which was granted.

Issue(s)

1. Whether the statutory 30-day period under section 6330(d)(1) for appealing a CDP determination to the Tax Court can be extended by a taxpayer's request for reconsideration.
2. Whether the 30-day period for filing in the correct court after an incorrect filing can be extended by delays in receiving court orders.

Holding

1. No, because the statutory 30-day period is jurisdictional and cannot be extended by a taxpayer's unilateral action, such as requesting reconsideration.

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2. No, because the statutory 30-day period for filing in the correct court after an incorrect filing is also jurisdictional and cannot be extended by delays in receiving court orders.

Court's Reasoning

The Tax Court applied the rule that the 30-day period for filing an appeal under section 6330(d)(1) is jurisdictional and cannot be extended. The court emphasized that McCune's filing in the District Court was untimely, as it was more than 30 days after the July 29, 1999, determination and even after the denial of his reconsideration request. The court cited section 6330(d)(1) and temporary regulations, which provide a 30-day period for appeal and an additional 30 days if the appeal is initially filed in the incorrect court. However, the court rejected McCune's argument that his request for reconsideration or delays in receiving the District Court's order should extend these periods, stating that such extensions are not permissible under the law. The court's decision was influenced by the need for finality and certainty in tax collection procedures, ensuring that taxpayers adhere strictly to statutory deadlines. The court did not mention any dissenting or concurring opinions, indicating a unanimous decision.

Practical Implications

This decision underscores the importance of strict adherence to statutory deadlines in tax appeals, particularly under section 6330(d)(1). Practitioners must ensure that clients file appeals within 30 days of a CDP determination, as any delay, including requests for reconsideration, will not extend this period. The ruling also clarifies that the additional 30-day period for filing in the correct court after an incorrect filing is equally jurisdictional and cannot be extended by delays in receiving court orders. This case serves as a reminder to legal professionals to monitor and act promptly on all notices and court orders in tax disputes. Subsequent cases, such as Goza v. Commissioner, have reinforced the principle that these statutory deadlines are non-negotiable, impacting how tax attorneys counsel their clients on the timeliness of appeals in tax collection matters.

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