Gantner v. Commissioner, 113 T. C. 343 (1999)

The two-year look-back period under IRC § 6511(b)(2)(B) applies to refund claims in Tax Court when a taxpayer fails to file a return and the IRS issues a notice of deficiency before the taxpayer files a late return.

Summary

In Gantner v. Commissioner, the Tax Court ruled that the two-year look-back period under IRC § 6511(b)(2)(B) applied to the taxpayer's claim for a refund of her 1996 overpayment, rather than the three-year period under § 6511(b)(2)(A). The taxpayer, Gantner, failed to file her 1996 tax return on time, and the IRS issued a notice of deficiency before she filed her late return. The court followed the Supreme Court's decision in Commissioner v. Lundy, holding that a substitute for return prepared by the IRS does not constitute a return filed by the taxpayer for refund purposes. This decision underscores the importance of timely filing and the limitations on refund claims in Tax Court for delinquent filers.

Facts

Gantner received extensions to file her 1996 tax return until October 15, 1997, but did not file by that date. On April 28, 1999, the IRS mailed Gantner a notice of deficiency based on a substitute for return it had prepared. Gantner filed her 1996 return on July 19, 1999, and claimed an overpayment of $22,116. She later filed an amended return and a petition in Tax Court seeking a refund of $21,915. The parties agreed that, after accounting for prepayment credits, Gantner overpaid her 1996 tax by $8,973.

Procedural History

Gantner filed a petition in the Tax Court on July 22, 1999, challenging the IRS's determinations in the notice of deficiency. The case was submitted fully stipulated, and the only issue was whether Gantner was entitled to a refund of her 1996 overpayment.

Issue(s)

1. Whether the two-year look-back period under IRC § 6511(b)(2)(B) or the three-year look-back period under § 6511(b)(2)(A) applies to Gantner's claim for a refund of her 1996 overpayment.
2. Whether a substitute for return prepared by the IRS under IRC § 6020(b)(1) constitutes a return filed by the taxpayer for purposes of IRC § 6511(a).

Holding

1. No, because the Supreme Court in Commissioner v. Lundy held that the two-year look-back period under § 6511(b)(2)(B) applies when a taxpayer fails to file a return

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and the IRS mails a notice of deficiency before the taxpayer files a late return.
2. No, because a substitute for return prepared by the IRS under § 6020(b)(1) does not constitute a return filed by the taxpayer for purposes of § 6511(a), as established in Flagg v. Commissioner and Millsap v. Commissioner.

Court's Reasoning

The court relied heavily on the Supreme Court's decision in Commissioner v. Lundy, which held that the two-year look-back period applies in cases where a taxpayer fails to file a return and the IRS issues a notice of deficiency before the taxpayer files a late return. The court rejected Gantner's argument that the three-year look-back period should apply, noting that a subsequent amendment to IRC § 6512(b)(3) did not apply to her 1996 tax year and did not change the applicability of Lundy. The court also dismissed Gantner's claim that the IRS's substitute for return should be considered her filed return, citing Flagg v. Commissioner and Millsap v. Commissioner, which held that such substitutes are not returns filed by the taxpayer for refund purposes. The court emphasized the policy of encouraging timely filing and the interplay between IRC §§ 6501 and 6511, which generally favor timely filers in refund claims.

Practical Implications

This decision reinforces the importance of timely filing tax returns to preserve the ability to claim refunds in Tax Court. Taxpayers who fail to file on time and receive a notice of deficiency before filing a late return are subject to the two-year look-back period, which may limit their ability to recover overpayments. Practitioners should advise clients to file returns promptly, even if late, to maximize their refund opportunities. The ruling also clarifies that a substitute for return prepared by the IRS does not start the limitations period for refund claims, impacting how practitioners handle cases involving non-filers. Subsequent cases, such as Millsap v. Commissioner, have continued to apply this principle, emphasizing the distinction between IRS-prepared returns and those filed by taxpayers.

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