Sarrell v. Commissioner, 117 T. C. 122 (U. S. Tax Ct. 2001)

In Sarrell v. Commissioner, the U. S. Tax Court ruled it lacked jurisdiction over a petition filed by Ervin Michael Sarrell against the IRS due to untimely filing. The court held that the 30-day filing period for challenging a notice of determination under Section 6330 was not extended for foreign postmarks, rejecting Sarrell's attempt to apply the timely mailing/timely filing rule. This decision underscores the strict adherence to statutory filing deadlines in tax collection cases, particularly for taxpayers abroad.

Parties

Ervin Michael Sarrell, the Petitioner, filed the petition pro se. The Respondent was the Commissioner of Internal Revenue, represented by William J. Gregg.

Facts

On March 30, 2001, the Internal Revenue Service (IRS) Appeals Office issued a Notice of Determination Concerning Collection Action(s) under Sections 6320 and/or 6330 to Ervin Michael Sarrell regarding his unpaid federal income tax liability for 1995. The notice was sent via registered mail to Sarrell's address in Israel. The notice informed Sarrell that he had 30 days from the date of the letter to file a petition with the Tax Court if he wished to dispute the determination. Sarrell received the notice on April 24, 2001, and subsequently filed a Petition for Lien or Levy Action on April 29, 2001, which was received and filed by the Tax Court on May 7, 2001. The petition was mailed from Israel, with the envelope bearing Israeli postage stamps canceled on April 30, 2001.

Procedural History

The Commissioner moved to dismiss the petition for lack of jurisdiction, arguing that it was not filed within the 30-day period prescribed by Section 6330(d)(1)(A). Sarrell objected, citing delays due to Jewish holidays and slow rural mail delivery in Israel. The Tax Court held a hearing on the motion, where the Commissioner's counsel appeared, but there was no appearance by or on behalf of Sarrell. The court reviewed the arguments and evidence and proceeded to rule on the motion.

Issue(s)

Whether the Tax Court has jurisdiction over a petition filed by a taxpayer outside the United States when the petition is not received within the 30-day period prescribed by Section 6330(d)(1)(A), and whether the timely mailing/timely filing rule under Section 7502(a) applies to foreign postmarks?

Rule(s) of Law

Section 6330(d)(1)(A) of the Internal Revenue Code provides that a taxpayer has 30

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days following the issuance of a notice of determination to file a petition for review with the Tax Court. Section 7502(a) provides a timely mailing/timely filing rule, but Section 7502(b) limits its application to postmarks not made by the United States Postal Service only as provided by regulations prescribed by the Secretary. The regulations explicitly state that Section 7502 does not apply to documents deposited with the mail service of any other country.

Holding

The Tax Court held that it lacked jurisdiction over Sarrell's petition because it was not filed within the 30-day period prescribed by Section 6330(d)(1)(A). The court further held that the timely mailing/timely filing rule under Section 7502(a) did not apply because the petition bore a foreign postmark, and Section 6330 does not provide an extended filing period for taxpayers outside the United States.

Reasoning

The court's reasoning was based on the strict interpretation of the statutory language. It noted that Section 6330(d)(1)(A) mandates a 30-day filing period, and this period expired on April 30, 2001, without legal holiday extension in the District of Columbia. The court rejected Sarrell's argument for applying the timely mailing/timely filing rule, citing Section 7502(b) and the regulations that explicitly exclude foreign postmarks from this rule. The court also highlighted the lack of an extended filing period under Section 6330 for taxpayers outside the United States, contrasting it with Section 6213(a), which provides such an extension for notices of deficiency. The court emphasized its limited jurisdiction, which can only be exercised to the extent expressly provided by statute, and concluded that any expansion of the filing period for foreign taxpayers must come from Congress.

Disposition

The Tax Court granted the Commissioner's Motion to Dismiss for Lack of Jurisdiction.

Significance/Impact

Sarrell v. Commissioner reinforces the strict adherence to statutory filing deadlines in tax collection cases, particularly affecting taxpayers residing outside the United States. The decision clarifies that the timely mailing/timely filing rule does not apply to foreign postmarks, emphasizing the need for taxpayers abroad to ensure timely filing of petitions. This ruling may impact how foreign taxpayers approach tax disputes, potentially necessitating more immediate action upon receiving IRS notices. The case also highlights the limited scope of the Tax Court's jurisdiction and the necessity for legislative action to address filing deadlines for international taxpayers.

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